

OPEN DAYS FOR MEMBERS AND OUTSIDE GROUPS

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BEFORE THE

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

OPEN DAYS FOR MEMBERS AND OUTSIDE GROUPS

JUNE 16 and 29, 1993



OCT 5 1993

U.S. GOVERNMENT PRINTING OFFICE: 1993

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CONTENTS

JUNE 16, 1993

WITNESSES

	Page
Hon. Tim Roemer, a U.S. Representative from Indiana	1
Prepared statement	143
Hon. Ralph Regula, a U.S. Representative from Ohio	6
Prepared statement	145
Hon. John Mica, a U.S. Representative from Florida.....	9
Hon. Frank Pallone, Jr., a U.S. Representative from New Jersey	19
Prepared statement	148
Hon. Steve Gunderson, a U.S. Representative from Wisconsin	12
Prepared statement	149
Hon. J. Alex McMillan, a U.S. Representative from North Carolina.....	15
Prepared statement	154
Submission of the Health Care Reform Budget Enforcement Act of 1993	160
Hon. Dan Burton, a U.S. Representative from Indiana	22
Prepared statement	215
Hon. Wayne Gilchrest, a U.S. Representative from Maryland.....	26
Prepared statement	220
Hon. James Slattery, a U.S. Representative from Kansas	28
Hon. Stephen Buyer, a U.S. Representative from Indiana	33
Prepared statement	224
Hon. Thomas H. Andrews, a U.S. Representative from Maine	36
Prepared statement	231
Hon. James C. Greenwood, a U.S. Representative from Pennsylvania	39
Prepared statement	237
Hon. Nick Smith, a U.S. Representative from Michigan	42
Prepared statement	240
Hon. David Minge, a U.S. Representative from Minnesota.....	43
Prepared statement	242
Title page and conclusions from a GAO report on Government shutdown and the need for legislation to prevent funding lapses.....	246
Hon. George Gekas, a U.S. Representative from Pennsylvania	46
Prepared statement	248
Hon. Paul Kanjorski, a U.S. Representative from Pennsylvania.....	48
Prepared statement	257
Hon. Bob Goodlatte, a U.S. Representative from Virginia	56
Prepared statement	262
Hon. Karen Shepherd, a U.S. Representative from Utah.....	59
Prepared statement	266
Hon. Eric Fingerhut, a U.S. Representative from Ohio	59
Prepared statement	266
Hon. Tillie Fowler, a U.S. Representative from Florida	61
Prepared statement	264
Hon. Peter Torkildsen, a U.S. Representative from Massachusetts	62
Prepared statement	264

JUNE 29, 1993

OPENING STATEMENT

Hon. David Dreier, a U.S. Representative from California	Page 71
--	------------

WITNESSES

Hon. Byron Dorgan, a U.S. Senator from the State of North Dakota.....	109
Prepared Statement.....	270
Hon. Larry E. Craig, a U.S. Senator from the State of Idaho.....	114
Prepared Statement.....	276
Hon. Dan Coats, a U.S. Senator from the State of Indiana.....	124
Hon. Sam Nunn, a U.S. Senator from the State of Georgia.....	129
Prepared Statement.....	329
Hon. Neal Smith, a U.S. Representative from the State of Iowa.....	71
Ned Massee, Chamber of Commerce.....	74
Prepared Statement.....	340
Fred Wertheimer, Common Cause	77
Prepared Statement.....	350
Paul Jacob, U.S. Term Limits	79
National Strategy for Congressional Term Limits	369
Prepared Statement.....	366
Article on term limits, by Edward H. Crane, from the National Civic Review	380
Articles on term limits from various newspapers	388
Hon. Joseph DioGuardi, former Congressman from New York, Truth in Government.....	82
Prepared Statement.....	397
Submissions of Chapters 2, 3, 7, and 8 from "Unaccountable Congress: It Doesn't Add Up"	403
Hon. Frank Horton, former Congressman from New York.....	84
Prepared Statement.....	456
Joseph Gimelli, Court Reporting Services, Inc.....	85
Prepared Statement.....	463
Richard Gutting, National Fisheries Institute, Inc.	87
Prepared Statement.....	487
Tom Schatz, Citizens Against Government Waste	89
Prepared Statement.....	490
David Slade, Coastal States Organization	91
Beth Marks, The Antarctica Project	92
Margaret Dunkle, Institute for Educational Leadership, Inc.	95
Prepared statement of Ms. Dunkle and attachments A-F	494
Prepared Statement.....	567
Arthur Sackler, Mailers Council.....	98
Prepared Statement.....	572
Gerald Leape, Greenpeace.....	101
Prepared Statement.....	581
Karyn Strickler, Endangered Species Coalition.....	104
Prepared Statement.....	588
Craig Van Note, Monitor.....	105
Prepared Statement.....	590
Andrew Palmer, The Coast Alliance.....	106
Prepared Statement.....	594

APPENDIX

Prepared statements:	
Hon. Dirk Kempthorne, a U.S. Senator from the State of Idaho.....	597
Hon. Rob Portman, a U.S. Representative from the State of Ohio.....	601
Hon. Eni F.H. Faleomavaega, a U.S. Delegate from American Samoa.....	603
Marianne Leach, Coalition for a Select Committee on Hunger.....	606
Tyrus Cobb, Business Executives for National Security.....	610
Suzanne Ludicello, Center for Marine Conservation	617
R. Gary Magnuson, Center for Marine Conservation	622
Gaiashkibos, President, National Congress of American Indians	626

OPEN DAYS FOR MEMBERS AND OUTSIDE GROUPS

WEDNESDAY, JUNE 16, 1993

UNITED STATES CONGRESS,
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,
Washington, DC.

The committee met, pursuant to notice, at 10:19 a.m. in room SC-05, The Capitol, Hon. David Dreier (vice chairman of the committee) presiding.

Mr. DREIER. The Joint Committee on the Organization of Congress will come to order.

Today we are responding to the request of many of our colleagues who have specifically said that they would like to have an opportunity to testify before this committee on a wide range of recommendations that they have considering the reform of Congress.

At this time we are happy to call on our first witness, our good friend from Indiana, Mr. Roemer.

STATEMENT OF HON. TIM ROEMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. ROEMER. Good morning.

I would like to first start off by asking a unanimous consent that my entire statement be entered into the record.

Mr. DREIER. Without objection, your prepared statement will appear in the record.

Mr. ROEMER. Thank you.

I'd also like to start by thanking the distinguished Members of this committee for the very difficult and rigorous task that they face. A number of reform committees in the past have not had particularly good results in getting reforms passed. I think out of nine reform committees that have offered packages to the United States Congress only two or three have been successful at getting those kinds of recommendations passed through the entire body.

Mr. DREIER. That is why we are counting on you to make sure that it happens this time, Tim.

Mr. ROEMER. I have every confidence in this committee that you can do it.

I read recently through a book by Leroy Reiselbach, who is a reformer of Congress. He wrote, "Congress and Congressional reforms in the 1970s." He outlined three conditions that needed to be present for Congress to get help when committees like yours do put good packages together with good reforms and good suggestions. The three that he mentioned that made reform conducive were the

Vietnam War, Watergate, and the recent elections of 1972 and 1974. I think he wrote the book in about 1976 or 1977.

Currently we have three conditions that I think will help us pass a reform package through the House. We have recently had elections of 110 new Members, Ms. Dunn being one of them, and being on this committee. With 110 new Members elected to the United States Congress to get reform, to get change, to get institutional restructuring of this body, I think that portends good things.

Secondly, I think with the House bank scandal, and with institutional criticism of this place at an all time high, that too will lead to reform.

Thirdly, we have an independent candidate, Ross Perot, garnering on average about 20 percent of the vote. That also points toward, hopefully, successful reform from this committee getting through Congress.

So I think your chances are better than they have been in the past. Having been a freshmen who fought for many changes in my first two years, and will continue to work closely with this committee through my role appointed by the Speaker on the DSG reform committee, I hope that we are all successful in implementing the kinds of restructuring and redesign and reform that we would like to see passed for the people of this institution and for the people of this country.

I come today before you to talk about just one particular idea that I think fans out and has an impact on a myriad of proposals before us. You have had testimony from many articulate Members of Congress that have touched on every thing from committee jurisdiction to banning the Appropriations Committee. My single idea—and I will give my reasons for supporting it—touches on committee assignments; it touches on floor organizations and scheduling of votes; it touches on substantive work here in the body, and personal satisfaction; and it touches on family life and quality of life in this body.

My recommendation, my strong recommendation to the committee is to put in your recommendations to the whole body of the United States Congress the idea that we go to a schedule of three weeks in session, Monday through Friday. One week is a district work period back in the districts of our constituencies, listening, learning, talking to our constituents, our business leaders, our Rotary and Kiwanis clubs, our schools, and factories, and businesses.

Let me outline the reasons that I have done this. I have worked on this proposal since I first got here two years ago in the United States Congress. The reasons are fourfold.

First of all, subcommittee assignments: I have to be brief in my remarks this morning because I will have three different subcommittees meeting at the same time this morning, overlapping, talking about very important matters. One is on energy and energy research and development matters in this country. One is on National service, and the idea of public service merits attention and reward in this country. The third one is on the Science, Space and Technology Committee.

I have to pick between those three committees. I shouldn't have to do that. I shouldn't make an opening statement in one, and run

off to another to make another opening statement, or listen to one witness, and then go to the third one, if I can make it that day. If we stretched out the week so that it wasn't a Tuesday through Thursday club, the subcommittee assignments—most of us have five—the schedule would be much more amenable for us to make all five of our subcommittee hearings, contribute in a substantive way, and learn from the witnesses as well.

Second, I am not telling people here anything they don't know. Mr. Dreier has been here a lot longer than Ms. Dunn and I combined. He knows the frustrations of the floor schedule, and how we can have an opening statement in our subcommittee and then the bell rings, and we have to cast a journal vote, or we have to go cast three suspended votes right in the middle of the day, right when the committee process is in full gear, rather than stacking these votes at the end of the day, or better coordinating this process through the course of the five day week.

This schedule would make the subcommittee assignments, subcommittee satisfaction, substantive subcommittee work much more conducive with our floor schedule. For that reason, as well, I would urge your committee to include this in the proposals.

Thirdly, I think that our ability to do the work that we are sent to do by our constituents is enhanced by a five-day work week, by our being able to sit through a four or five hour hearing, listening and learning from the expert witnesses. It also gives us a great deal of job satisfaction when we can do that. So oftentimes in my first two years in Congress I have had to shuttle back and forth between subcommittee assignments. Oftentimes now I will try to sit through one for five or six hours straight so that I can get all the information from that subcommittee.

I think that enhances our own personal job satisfaction around here when we can develop expertise on different issues, when we can then come up with substantive and helpful amendments through the subcommittee process and the full Committee process. We can also help in the markups and on the floor, shepherd legislation through this body. That helps develop good public policy. The third reason is job satisfaction and contributing to good public policy in this country.

Fourth, and a compelling reason for all Members in this body, is our ability to have a good quality of life and develop good public policy. So oftentimes in this body we find ourselves casting votes at 12 and 1 o'clock in the morning, coming in the next morning at 9 o'clock, where we have two weeks straight that we are going at that kind of schedule.

Or, conversely, when we have had the kind of schedule that we have had lately, and we have no votes, no committee meetings on Mondays and Fridays, and half of Tuesdays, and we are not taking advantage of the time here in the legislative process to reform and to create good public policy and substantive legislation before our committees.

Our quality of life is important for our families. It is important for our children. It is important for our health.

I would hope that for those four reasons that you would consider this proposal of three weeks in schedule, one week working hard in the district.

Finally, as a caveat, I would say, too, that the week back home in the district is not a work week off. Some people have called this proposal the three-week-on, one-week-off proposal.

When I talk to my colleagues, oftentimes I hear from them that the week back home, or the three days over the weekend back home, are busier than the day here, or the three weeks, or the time that we put in with the committees here, as busy as it is. We are often going back home from an early morning Rotary Club, to school and factory visits, to a Kiwanis speech at lunch, to town meetings all afternoon, to school visits, to a speech to some kind of community group at night.

Mr. DREIER. We have the Lions. You have the Rotarians and Kiwanians.

Mr. ROEMER. That is the rest of the week, David. That would be the rest of the week that you could work in.

I think that this also is very, very symbiotic to what we all try to do. That is to listen and learn from the great advice that we receive from our constituents back home. I have often said that I get my best advice from the Third District of Indiana.

Oftentimes when I fly in on Friday night and leave on Monday morning, or Sunday night, I don't have as much time back home to learn, to contribute, and to then take the ideas back home to this body here, this institution, to try to put together good legislative ideas.

For those four or five reasons, I would strongly recommend that your committee take this into consideration. I have a letter that I will be giving to you shortly. The letter outlines why we should move to this kind of schedule.

I spent about two and a half hours on the floor the other day getting signatures, and have a great deal of support from both the Democratic and Republican freshmen class, and from the Democratic and Republican parties. I have received about 60 or 65 signatures in two hours. We hope to add many, many more.

There is bipartisan support for changing what is now a very, very chaotic schedule into one which we hope will be substantive, which will be oriented toward a better quality of life, and which will be strongly targeted toward developing good public policy on the part of our constituents, and on the part of the country.

With that, let me conclude and again thank this distinguished committee for your time, not just today, but for the last few months. Good luck for success on this very important endeavor.

[The prepared statement of Mr. Roemer is printed in the Appendix.]

Mr. DREIER. Tim, thank you very. That is very helpful testimony. We appreciate the fact that you have taken the time to be here this morning.

I was very sincere when I said that we are going to have to rely on you and, obviously, many of our other colleagues if we are going to successfully pass a reform proposal that is going to bring about a greater degree of fairness, balance, accountability, the things to which we all aspire.

Let me just touch on one item quickly, then I am going to yield to Ms. Dunn. Then we are going to charge ahead, because we have a pretty rigorous schedule this morning.

You have talked about the fact that if we were to move to a five-day work week, we would be in a position where we could have attendance at those five subcommittees. But, it seems to me that one of the things we have been talking about here in this committee, and most of our witnesses have addressed, is the idea of reducing the number of committees and subcommittees on which Members serve so that we can improve the operations of the place. I wondered if you have any thoughts about that?

With as many subcommittees as you are on, even with a five-day work week, it still would be extraordinarily rigorous to try to get to all those, and spend, as you said you'd like to, six or seven hours at a committee hearing.

Mr. ROEMER. I would not vote against a package because it reduces the number of subcommittees that we are allowed to serve on. I think that would be something that I would consider as possible legislation in the reform package; reducing the number from five to four, or possibly to three. But I do think, David, that the real crux of the problem here is the schedule.

The real problem is the overlap, the problem that I am experiencing this morning—testifying before your committee, trying to markup the National service bill, trying to markup the new Educational Goals 2000 bill, trying to go to hear testimony on Energy, and Science, Space and Technology legislation.

If we had a five-day work period, not only could ideally those five days have five different subcommittees drawn out on the five different days, you could also have on Tuesday morning, one of your subcommittees. Let's start the day at 9 in the morning. That is the first subcommittee hearing. Then at 2 p.m., another subcommittee hearing could take place.

I think we need better coordination between our subcommittee chairmen, quite frankly, so that we don't have 9:30 a.m. and 1:30 p.m. slots primarily on Tuesday morning and Wednesday taking the brunt of all the subcommittees, so that we do have the problem with the overlap.

I think finally, David, one of the things that we need to look at is subcommittee chairmen that really encourage attendance on the part of their committee Members in innovative ways, in ways by which they provide carrots rather than sticks. As a freshmen I chaired three or four or five different subcommittees because chairmen were willing to give that as a carrot for attending meetings and for getting other people there.

Mr. DREIER. On subcommittees, it is a penalty for attending meetings, I should say.

Mr. ROEMER. I think there are all kinds of ways by which you can enhance attendance, by allowing different subcommittee people to put forth ideas for that hearing that next week, and getting witnesses there. I think there is a plethora of ways by which we include people in that process so that they will attend subcommittee hearings, and so that you don't need necessarily to reduce the subcommittees. Although, that could be an idea.

Mr. DREIER. Thank you very much.

Ms. Dunn?

Ms. DUNN. Thank you, Mr. Chairman.

Tim, I agree 100 percent with what you have just said. I think it is terribly important for us to focus on this change in scheduling for all the reasons you mentioned. I'll give you a couple of other reasons. Because we have to be brief, I will not ask you a question. I wanted you to be able to add a couple of things.

In the mid-1980s, Senator Dan Evans from Washington State, was able to put together a package of reforms in the Senate, which included the three weeks' work in Washington, DC, and one week as a district work period. So the Senate already has the ability to follow this schedule. It seems to me that if the House were to do the same thing it would strengthen the Senate's will, and it would help us to mesh our schedules a lot more effectively.

The second think is that I have found in my short tenure here that the issues we focus on in the district are usually very different from what we are talking about in Washington, DC. In my district, the Park Service cutbacks affect Mt. Rainier, and I need to spend time focusing on that issue. We have some problems in preserving our salmon resource. We need to dredge the Cedar River delta. We need to look at the safety of Highway 18 and the rest stop in Elbee.

All these issues are interesting to my district, but I am not able to spend the time here focusing on those.

Mr. DREIER. Those are next on the agenda.

[Laughter.]

Ms. DUNN. So, I want to be able to go back and spend a full week or ten days really thinking about what it is that concerns my constituents the most. So, just realize that you will have very strong support for your suggestions from this Member.

Mr. ROEMER. Thank you, Jennifer, I appreciate that.

Mr. DREIER. Thank you very much, Tim. We appreciate your being here. We will certainly be taking your testimony into consideration as we proceed with markup.

Mr. ROEMER. Thanks, David. Thank you, Jennifer.

Mr. DREIER. Thank you.

Now, we are very pleased to have our colleague from Ohio, Mr. Regula. Ralph, you can proceed. If you have a prepared statement, we are happy to include it in the record, and you are welcome to summarize.

STATEMENT OF HON. RALPH REGULA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. REGULA. Thank you, Mr. Chairman.

You have a daunting challenge here to say the least. I am going to summarize and be very brief. I don't want to plow the ground that you have been over for the past many weeks.

You did forget the Ruritan, David. That is the farmers' weekly club, so we want to get them all covered.

Mr. DREIER. Right. I think Tim Roemer was planning to go to that. I have yet to go to a Ruritan meeting, I'll tell you.

Mr. REGULA. You may not have them in California. They are a little ahead of the rest of the country.

Mr. DREIER. We are glad you are taking care of them for us, Ralph.

[Laughter.]

Mr. REGULA. There are three points I'd like to make.

Number one: biennial budget. I serve on Appropriations, and have done so for 19 years. My concern is that we always start programs, we fund programs; then we walk away, simply because we don't have the time to do oversight.

What we need, and I think should be your challenge, is total quality management. We hear a lot about it in the private sector. Perhaps Edward Denning should testify before this committee as to how we can better structure the process.

Certainly a biennial budget in which you spend one year putting a package together that will cover a two-year period, and use the second year for oversight will help. I find it frustrating that I don't have the time to visit parks, for example, to see how we can more effectively address their needs, or the forests, or the Department of Energy.

My two subcommittees have a total of roughly \$50 billion. It is all discretionary, so we have jurisdiction over that amount of money. Our subcommittees allocate those resources. In the final analysis, the way you make policy in government, real policy, is by the way in which you allocate your resources. If you put money in a program, that then becomes a de facto, real world policy.

The other advantage is that the agencies would be able to manage their budgets. As it is, they live sort of hand-to-mouth, because they don't know what they are going to have until the first of October, under ideal circumstances. Pretty soon they buy some trucks, if it is a park, or whatever their needs might be, and likewise in other agencies. Pretty soon they are talking about what will we have next year.

If they had a two-year cycle, I think they could get lower bids for fuel or for supplies. They could manage better in terms of their needs. As you know, David, at Yosemite we are now rationing the access to Yosemite National Park. People might drive all the way from the East Coast to go out there and discover they can't get in.

Part of it is because we, perhaps, are not managing the dollars as carefully as we might in order to provide them a good reservation system, a way in which they would know ahead of time what was available. I think the biennial budget ought to be given a lot of consideration in terms of a management tool.

Second is jurisdiction. I served on the Select Committee on Aging. I know that it has been abandoned. One of the problems in the field of aging is that we have at least 14 committees with jurisdiction. So, when people need to focus on a problem, be it preventive medicine, be it abuse in the rest homes, for example; they are not sure what committee has jurisdiction. That is a tough one. I understand that very well.

If you could clearly define jurisdictions, so that the agency would know which committee had responsibility, and could address their concerns to that committee it would help.

EPA answers to 90 committees in the Congress. You can imagine the frustration of the Administrator trying to determine how to effectively manage—and I use the word manage over and over again because essentially we are delivering services for receipts in the form of taxes. The more efficiently we manage those resources, the better government we can deliver to the taxpayer.

Obviously, when an agency is confronted with having to prepare for hearings from potentially 90 committees, it is going to debilitate their time that ought to be spent in doing a better job, and having time to develop policies that will be more effective.

My third point is the question of the committee work. There is no doubt that committees are the real area in which policy is made. Once a bill gets to the floor, as we discovered yesterday, amendments have very little chance. There may be some that are agreed to, but by and large, committees are the point at which policy is formulated.

Therefore, I think Chairman Rostenkowski was right. We should limit it to two committees. We should limit each committee to two subcommittees, so you don't have the problem that was just outlined in front of this commission a few minutes ago.

I know that in Appropriations, because it is a prime committee, we are limited to that committee. We are limited, on the Republican side at least, to two subcommittees. I have all the work I can handle just doing a good job, and being at the meetings.

Again, this is where we really make legislative decisions. I think anything you can do in your recommendations that will strengthen the committee process, that will strengthen the participation will help.

Therefore, there are two additional things. That is that I would require that attendance be taken at a committee and subcommittee level. Maybe a Member can't stay the full time, but at least, if that Member goes to the committee to check in, you will find out what is on the agenda. While you are there, you may stay awhile and listen to the testimony. Otherwise, as is self-evident right here, there is difficulty getting people to meetings.

Mr. DREIER. They just knew you were going to be here, Ralph. [Laughter.]

Mr. REGULA. I understand the constant conflicts. You look at the schedule in the morning.

Therefore, it is really a three step process. One, limit the number of committees. Two, require attendance be taken. Three, no proxy voting.

In Appropriations we do not have proxy voting. I think, therefore, the Member at least feels compelled to get an understanding of the issues, because that individual is going to have to vote, and cannot assign that responsibility to somebody else on his behalf.

There are many other things, but those in my judgement, are the three management challenges that we need to address here, and start restructuring the way in which we do business.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Regula is printed in the Appendix.]

Mr. DREIER. That is extraordinarily helpful testimony, Ralph.

Let me just say that the first item that you mentioned, the idea of biennial budgeting, is something which we have all been discussing here. I am happy to report to you that there is a great deal of interest in seriously considering that proposal. Many of us happen to believe that would go a long way towards addressing many of the problems that we deal with around here.

Mr. REGULA. I served on the Budget Committee six years. This grows out of that experience, plus sitting on Appropriations, which is essentially very much a management committee. It bothers me that we don't have time to do oversight, to find out what works.

I think probably part of that is we should do pilot programs, and not rush in to a whole new program before we try it out to see what works. We are going to get this challenge in health care. Rather than to put in place a system that is going to be around for the next 100 years or more, as we have found with Medicare, we had better do a few pilots and make sure we get something that works.

I would also point out that most legislatures operate on a biennial budget for the very reasons that I have outlined.

Ms. DUNN. Thank you.

Ms. Dunn?

Ms. DUNN. Thank you very much, Ralph.

I think that these are very helpful issues you brought up. There is a great deal of support for all three of them. What they present is a chance for substantive change, not just procedural. I think that is what we really want to do on this committee. They keep the deliberative part of this process strong, and make it even stronger. So, I think you are going to find that at least part of this is going to be very broadly supported.

Thank you.

Mr. DREIER. Thank you very much, Ralph.

The testimony was very helpful. Again, we will be taking your ideas into consideration as we proceed.

Mr. REGULA. You have quite a challenge.

Mr. DREIER. We are going to have to rely on you for your very important and key support when we move ahead with something.

Mr. REGULA. Thank you.

Mr. DREIER. Thank you, very much.

We are now very pleased to have one of our fine new Members of Congress, who has been on the front line dealing with a wide range of problems, not only here in Washington, but also in his home state of Florida, our good friend, John Mica.

John, happy to have you.

STATEMENT OF HON. JOHN MICA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. MICA. Thank you so much, David and Jennifer, especially for the commitment you make to this effort to reform the Congress. A lot of people are counting on you, not just here in the Congress, but throughout the United States.

I come to you today as a Member of one of the committees. I want to talk specifically about what is happening, and ask this commission to look at this type of situation that I think is totally unfair, and needs the attention of this particular commission.

I serve on the House Government Operations Committee, which is charged in its charter for investigations and oversight of Federal agencies. That is an important task, because it is supposed to oversee and investigate the problems of the myriad of Federal agencies.

Let me tell you how this committee is structured. As far as the investigative staff for this committee, the majority has 55 investigative staff; the minority now has seven investigative staff. The budget is apportioned \$3 million to the majority, and \$300,000—ten to one—for the minority. I think this is probably an example of the greatest inequity in committee staffing in the entire Congress.

It is really sad, because this is the investigative and oversight arm of the Congress. Unfortunately, right now it is run like a medieval fiefdom. It is run on a winner-take-all mentality. It completely defies any system of checks and balances, particularly when you have a majority party that controls the House, the Senate, and the Executive Branch.

So, I am here to say today that either we correct this, or we abolish it. It makes no sense in this distribution. It doesn't give me as a minority member the opportunity to represent the people, not only of my district, but of the country, in the important responsibility of investigations and oversight.

That is my message. I have a nicely drafted set of formal remarks.

Mr. DREIER. Without objection, they will appear in the record at this point.

Mr. MICA. If you have any questions, I would be glad to answer them.

[The prepared statement of Mr. Mica is printed in the Appendix.]

Mr. DREIER. Great. Thank you very much, John.

Ms. Dunn?

Ms. DUNN. Thank you, Mr. Chairman.

Mr. Mica, I have to tell you today that I think you brought up a really important point. It is one that I sure have been working on since the beginning of this Congress, when I discovered exactly the sort of thing that you just discussed; the unfairness in staffing in committees and in control of the budget.

I'll tell you something: I appeared before the Rules Committee last week on this very issue to propose a 25 percent cutback in committee staff that would be based on a fair ratio which we considered: two majority to one minority, and control of one-third of each committee budget by the ranking member. We were not allowed to discuss this on the floor as an amendment to legislative appropriations. The unfairness comes through in lots of ways.

I, too, believe that if we could move to this method, and put it in the House Rules, or put it someplace where it had to stand, then that would provide the minority the simple fairness it is looking for—the ability to investigate issues the way that we should in order to provide good solutions, alternative solutions to problems. I think this House would run much better.

I thank you for your testimony.

Mr. MICA. Again, I thank you.

This is a gross inequity. We can't run a government, or a Legislative Branch that is charged with investigations and oversight, on this basis. People have said, hush down, tone down on this. I won't stop on this. I only have a 24 month contract, but I'll bring it to the attention of this commission. Every opportunity I have I am going to bring it to the attention of the House and the Congress,

and the American people, because it is not the way to run this railroad.

Mr. DREIER. Let me just touch on one other item, John, before you leave.

We have discussed with our other witnesses today the whole issue of the number of committees in the Congress. That is something that we are going to be addressing in the coming weeks and months as we move ahead.

What other committee do you serve on, other than Government Operations?

Mr. MICA. Public Works and Transportation.

Mr. DREIER. How many subcommittees are you on?

Mr. MICA. I am on two on each.

Mr. DREIER. Two on each, so four.

Mr. MICA. It is manageable, but I would not recommend any more than that. The problem is the multiple jurisdictions. Government Operations has multiple jurisdictions. Ralph was just before me and said EPA has 90 committees.

Mr. DREIER. Ninety committees to which they have to report.

Mr. MICA. So, you have such diffused responsibility that nothing gets accomplished. EPA is another disaster that defies logic to the taxpayer or to the elected representatives. We oversee some of that.

I'll give you a good example. We found over \$4.8 billion that could be lost in the Superfund because of mismanagement, and gross ineptness, and contract fraud and abuse in the Superfund. Where would I turn to pursue that as a minority member? We have one person assigned to the subcommittee. We can barely have that one person prepare us for the hearings. Meanwhile, with this diffusion of responsibility and with this lack of resources brought for the minority, nothing gets done.

Mr. DREIER. You serve on four subcommittees, two full committees. Have you observed the use of the proxy, at all, in any of the markups on legislation there?

Mr. MICA. Yes. It is used, sometimes because people aren't there, and sometimes because people don't want to be there.

Mr. DREIER. What are your thoughts? Do you think that we should maintain the proxy voting, or do away with that?

Mr. MICA. Well, if you don't have the obligations to be in as many places at the same time, you don't have as much reliance on the proxy. I don't have a problem with it, because there are other demands on a legislator. You have people back at your office. You have events that you have attend to. I think you may need it.

The problem is the diffusing of responsibility. There is no pin-pointing of accountability. There isn't the oversight on these agencies. These agencies need to be gone through, agency by agency. That is what people sent us here for; to look for ways to save money, to run them more efficiently.

Those things never get heard. You are getting the Showtime. You know; the rats in the carpeting hearing, and I am sure you will have the syringes-in-Pepsi hearings before it is over. The media loves the attention, but the nuts and bolts, the management of this government is a disaster because this Congress, and the minority, do not have the tools to get the job done.

Mr. DREIER. Earlier this morning I participated in a meeting with the National Tax Limitation Committee. One of the proposals that they have made is that we have a separate handle, oversight of particular items that this Congress does, so that the committee that makes the legislative decision on that issue is not the one that actually has oversight.

What thoughts do you have about that?

Mr. MICA. That is the basis of this Government Operations Committee, in theory, but that is not the practice. The authority is so diffused, I defy anyone to pinpoint who has responsibility for agency A, B, C, D, E. It doesn't work that way here. Then there are the fights of jurisdiction.

Mr. DREIER. What about the idea of putting specific items in different committees, not in, as you have said, one committee. I was on that committee, the Government Operations Committee, when I first came to the Congress. Clearly it is obvious that there should be a high level of oversight over particular items.

As you have said, it hasn't been as successful as it should be. So the idea of having different committees deal with oversight of other areas is something that has been proposed.

Mr. MICA. We have one committee fund, and we have another one that authorizes that funding, and we have another one that legislates, and we have a fourth one, oversight. Maybe we have too many. I don't know, but what I know we do not have is clear lines of authority, clear lines of jurisdiction. You cannot choose a particular agency and pinpoint who is responsible for that agency.

When it comes time to look at a problem in an agency, everybody is pointing in different directions. I think pinpointing of responsibility is very important. If you have an investigations and oversight committees of this nature—and I am not here asking for a penny in additional staffing—I am saying a fair distribution, particularly when you have the White House and the Congress completely controlled by one party. There should be at least some mechanism to kick in some responsibility, some check and balance in the system.

Mr. DREIER. John, thank you very much.

We appreciate very much your very helpful testimony, and we will look forward to taking your ideas into consideration as we proceed.

Mr. MICA. Thank you.

Mr. DREIER. We are very happy to move ahead now with our next witness, my classmate, and our good friend from the State of Wisconsin, Mr. Gunderson.

Steve, we are happy to have you. Please proceed. If you have a prepared statement you would like to include in the record, we are happy to do that at this point. You are welcome to summarize.

STATEMENT OF HON. STEVE GUNDERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. GUNDERSON. Thank you very much, Mr. Dreier, Mr. Chairman, and Ms. Dunn. I am delighted to be here.

Mr. Chairman, as part of this committee's review of the organization of Congress, I think it is critical that consideration be given to

the basic issue and the growing perception, and sometimes, unfortunately, the fact that more and more of Congress' work is being done behind closed doors. The decision to close hearings is being made more and more frequently, and for an increasingly broad range of issues unrelated to either the matters of National security, or personal privacy.

Currently, the two committees most likely to retreat behind closed doors are the committees that deal with all of the taxpayer's dollars. Those being on the House side, the Ways and Means, and the Appropriations Committee. It is now standard procedure for the 13 subcommittees of the Appropriations Committee to markup their annual appropriations bills in closed session.

Think of it: Right now, of the 10 subcommittees that have thus far completed their work, all 10 did their work behind closed doors. By the time all 13 subcommittees have completed their work, \$539 billion in taxpayer's money will have been appropriated in total secrecy. That is just part of the problem.

The second part of the problem is, it remains secret between subcommittee and full committee. Not even Members of Congress have the ability to determine what actions were taken on behalf of their interests, or their constituents', between subcommittee and full committee in hopes that they might try to communicate with their colleagues on the full committee to amend or change a particular position.

We had a situation this past week where a Member of Congress sought to attend a subcommittee markup. He was not a member of the Appropriations Committee, or that subcommittee. A Member of Congress was denied access to a subcommittee marking up a multi-billion dollar appropriations. We are not even talking about the general public now. We are talking about elected Members of Congress, with interests from their districts, and they are told they can't be in the room when the decision is debated and discussed, to say nothing of the public, the general press, etc.

Recognizing this, in my comprehensive statement that I am submitting to you, I have laid out in distinct detail how I believe we in the Congress ought to take a look at, in my case, the Wisconsin Open Meetings law, as a prime example of how government can come into the open, and run successfully. We have passed budget after budget. We have dealt with issue after issue in the State Capital in Wisconsin, all in front of the citizens of Wisconsin and the press. I think we can take that, and use that example right here in the Congress.

We have a presumption only that meetings and hearings of each standing committee will be open. We leave total flexibility under present rules to that committee. It seems to me that is a problem. We ought to, at a minimum, require that before a meeting can go into closed session that it be announced that it is going to move into closed session, and that if it is not a National security, or a personnel decision, that the Members would have to vote on going into closed session, as we do in the full floor of the House before we allow the Armed Services Committee to go into closed session in conference to deal with issues of obvious National security.

Think about it: We require a full vote of the House of Representatives to allow a defense authorization conference report to meet in

closed session. At the same time, we allow all of the funding decisions in this Congress to be done in closed session with no vote by anybody. It has just become a common practice around here that I think needs to be changed.

Nobody desires, I don't think, to move our party caucuses or conferences into open session. We respect the right and the need for those to be in that particular area, but I do think we want our general meetings to move into the area of the public. This not only includes the general meetings of the committees, I think there are a number of commissions in the Congress as well, such things as the AIDS Commission, as one example; the base closings commission would be another example.

Today they are allowed to go into closed session to conduct what is obviously very important policy to millions of people. They are allowed to make those decisions in secret. I think if we seek the responsibility of the public, if we seek their confidence, we have to be willing to undergo the accountability of having the public accessible to these meetings, where the lives of people are being determined time and time again.

Without going into more detail, I would invite you and your staffs to look at the details. We stand ready to work with you, if you want to move in this area.

I want to commend Ms. Dunn because she has taken the leadership in this area. In fact, it was she who said, "You feel so strongly about this, why don't you come and testify in front of our committee?"

So, if you have too many witnesses, blame Jennifer. I wasn't going to come here, but I decided this was too important not to articulate.

[The prepared statement of Mr. Gunderson is printed in the Appendix.]

Mr. DREIER. We are glad you did, Steve. Your testimony is very helpful.

Now, I'd like to yield to that leader on the issue of sunshine legislation, Ms. Dunn.

Ms. DUNN. Thank you, Mr. Chairman.

I won't take long. We are on a short time line here, but I just want to say that it was Steve's idea that put this sunshine act before us. As you know, it was a joint project at the beginning of the freshmen Republican class. If it hadn't been for Mr. Gunderson, we wouldn't have been brought to realize that there simply is not an open meetings act in the United States Congress the way there is in many, many, many state legislatures around this country. It was he, combined with the discussion that I was able to have later with David Broder, who suggested that perhaps opening these meetings up might bring some fairness into the system and the way that the leadership acts in some of those meetings.

We are proceeding. Just as an update on the sunshine act, Steve, of which you are a co-sponsor, it is a bipartisan bill now, that will back up anything we do here on this committee. It is moving slowly, but it is good public policy. I think those of us who favor this have a really great opportunity to provide some reform that will affect a lot of what we do around here. Continue the deliberative part of the process, but put in a forum so that the public and

the media can step into those meetings and see what is really going on.

I commend you for your idea, and thank you for your testimony.

Mr. GUNDERSON. Thank you.

Mr. DREIER. Thank you very much, Steve. We are happy to have you.

Now, I am happy to call on our colleague from North Carolina, my good friend and hallmate, Mr. McMillan.

STATEMENT OF HON. ALEX MC MILLAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. McMILLAN. Thank you, Mr. Chairman. I appreciate both of you, and all of the members of the task force, devoting the considerable time and energy that you have to this important process of trying to reform the Congress.

I hope you will bear with me for a few minutes while I introduce an idea that I have been working on for some two years as a member of the Budget Committee. It is entitled H.R. 2172. We called it the Health Care Budget Enforcement Act of 1993, because while being a broad budget reform spending target piece of legislation, it really directs itself to the fundamental problem that we face in dealing with the budget deficit, which all too often we deny around here.

That is the fact that the excessive growth of the entitlement programs, specifically Medicare and Medicaid, is what has been and what is driving the budget deficit. Medicare last year increased over 12 percent, and Medicaid over 20 percent, three to four times the rate of inflation that most of us, as citizens, are having to live with. It is even worse than that if you look at the cost-of-living figures that came out today, for last month, at one percent.

If you will bear with me, I would like to inform you and the public that may be watching, a little bit about this. We have it in legislative form, and we have a summary document, which I will, with the permission of the task force, submit as a matter of record.

Mr. McMILLAN. We all recall the 1992 debate about a constitutional amendment requiring a balanced budget. I supported that, as did many of us. But it demonstrated the importance that regardless of whether you have a constitutional amendment, you have to have a disciplined procedure to achieve balance, even if you have such a constitutional mandate.

A budget, as we all know, in any family or business is a financial plan that reflects collective goals of the organization or the family. Any government must have such a financial plan, likewise, with enforcement built in it. Anything less is a scam to the public, Congress, and the government management. With each passing year failure on the part of Congress to act exacerbates the deficit problem facing this Nation. We have all seen that occur over the past 20 years.

This year, with health care reform on the agenda, promises more of the same unless the budget laws are changed. Spending targets are fully accepted in business or any other entity. It is essential that we use spending targets all across our budget and not just

with respect to the discretionary spending programs, which were adopted in the Budget Enforcement Act of 1990.

My bill, H.R. 2172, the Health Care Reform Budget Enforcement Act of 1993, grew out of Budget Committee hearings on the substance of the problem, and how the budget process is currently skewed towards avoidance of any discussion on the mandatory programs in the Federal budget, even though they now represent over 50 percent of the total budget. We don't even vote on them every year, except to bury it in reconciliation.

Current law, strangely enough, almost encourages Congress to avoid making spending reduction or tax increase decisions on programs reflecting current consumption. Congress enacts and perpetuates entitlement programs which do not require annual reauthorization and appropriation, as well as strict oversight. As a result, Congress continues to borrow massive amounts of money to fund these apparently "unmanageable" Federal programs. The only thing unmanageable about them is that Congress and the authorizing committees are failing to do so.

No better example exists than the fact that this year's budget includes \$17 billion in disproportionate share payments under Medicaid, that in 1988 only amounted to \$1 billion in the Federal budget. It has become an entitlement program that we don't even act on, year in and year out. We did this year; we put a stop to some of it.

That is a perfect example of why Medicaid is out of control. This act is designed to address both the substance of the problem and the process, focus the debate on the areas of the budget that need to be addressed, and provide spending targets for each specific category, and hence deficit reduction targets.

This act does not allow the deficit to exceed \$150 billion by 1998. To get that into perspective, the current budget that we are looking at, that has been proposed by the President, and voted on by the House, will probably exceed over \$300 billion of deficit, if we are lucky, in 1998. This would more than cut it in half. We could go further if we choose.

This act requires the President to submit a five-year budget plan to Congress, which Congress may amend and adopt, and send to the President to be signed into law. Failure to adopt a budget plan by a date certain will result in a continuing resolution at the prior year's level of appropriations. That is to say there will be a flat freeze if we don't adopt the budget with both the Congress and the President signing it within a specified period of time.

This act will require that budgets set categorical spending targets for discretionary and mandatory programs. Revenue projections will be based, in this case, on January 1993 Congressional Budget Office economic assumption and cost estimates. Any changes to spending targets must be made during the annual budget process. We would have already done that by this date if this bill were in effect.

This act will eliminate the practice of baseline budgeting, where reductions from future increases are treated as cuts, when in actuality most programs will continue to experience annual increases over the prior year. The public needs to understand that when Congress talks about cuts, they are not talking about cuts typically from what is currently being expended. They are talking about

cuts from what is estimated that they have already, in effect, built in as increases. It is not really a cut at all. This would clear up that misconception so that we could talk about facts honestly.

Authorization and appropriations committees will be instructed each year to meet spending targets by the Budget Act. Failure to reconcile in the committees of authorization will result in a categorical sequester of the programs under the jurisdiction of that committee at the current outlay levels. That is tough medicine, but that is exactly where we are avoiding the problem right now.

This forces the authorizing committees not to continue to authorize programs that then get handed over or deferred to the Appropriations Committee to do—as the prior speaker said—often in secret, what they will. It requires the authorizing committee, which is charged with the oversight of the programs, to reconcile those to the budget. Failure to do so means freezing it right where it is. That is pretty stern discipline, but it is needed.

Spending targets are explicit in this act. I am not going to go into them specifically, although I would ask that they be given careful consideration. I want to talk in principle about what is contained in them.

They represent the reductions initiated largely in the last Administration on defense reductions of approximately 13 percent in real terms in the national security functions, which combine the defense and the international affairs categories. The current President's proposal would be somewhat less than that.

Domestic discretionary programs in these targets are held to an absolute freeze in the aggregate under this proposal, although spending priorities can and should be made by the specific authorization and appropriations committees to eliminate and reform certain programs to pay for the increases in other programs. We would have that latitude, but we couldn't exceed the caps.

This is perhaps the most important. Increases in Medicare and Medicaid in this act are held to the consumer price index, plus expected demographic changes over the next seven years, as a goal within which we should be making decisions with respect to health care reform. You may say, well, that is too tight, given the fact that that amounts to about 4 to 5 percent a year in those programs and contrasts to the 12 to 20 percent that we have been experiencing.

My point is that health care reform basically needs to get at the underlying cost drivers. We need an outline or guideline within which to exercise that discipline. If after having failed to do so, then Congress couldn't simply say we failed, therefore we are going to add to the deficit without taking responsible action. They would have to make a decision to find the revenue to pay for it, which is precisely what we would have to do under a balanced budget amendment, which is precisely what we should be doing anyway.

Other entitlement programs in this act are targeted based on the current CBO projections. So Social Security, for example, could continue to increase at the cost of living that affects it, which is essentially what we have been doing. I don't think that is the major cause of the problem. The problem are those entitlement programs that are exceeding the cost of living. Targeted spending figures are presented in tables, which I will submit as a matter of record.

Mr. McMILLAN. These spending targets, particularly those in the Federal medical health programs, will be difficult to achieve. But the role of the authorization and appropriations committees of the Congress is to exercise diligent oversight of Federal spending programs. This act will force Members of Congress on the committees of jurisdiction to make the fiscal decisions necessary to achieve those targets rather than abrogate such responsibility and allow spending to continue unchecked, and the National debt to continue to explode.

The House Republican budget alternative for fiscal year 1994 identified \$93 billion of such policy decisions in the Federal health programs, and a list of other options in the absence of health care reform. The most difficult debate the 103d Congress will have is to resolve the health care issue. This act will provide an enforceable guideline that is consistent with common sense and fiscal responsibility in which the health care debate can be reasonably debated and decided.

This act is consistent with the expressed goal of President Clinton and many Members of Congress that health care costs must be arrested before we can make any progress on solving the budget deficit problem, and that there is no reason why health care costs shouldn't be brought down in line with the overall rate of inflation. That is a heck of a challenge, but this bill puts it into perspective. I think for that reason, it is a constructive piece of legislation.

It requires us to either reform existing health care programs, eliminate programs that have outlived their usefulness, alter the scope of certain existing programs, possibly add such programs as necessary, and if we have to, propose the measures to raise the revenue to pay for what is spent. But we can't defer it and fail to take action.

This means that Congress no longer simply accepts past trends as prologue. Any outlays that will exceed the cost of living plus demographics must be specifically authorized and paid for each year.

Some will say you cannot exactly predict volume in medical care, but volume is probably more predictable than any other cost estimate that we have to deal with. The benefit of forcing Congress to make these decisions on an annual basis is that the Federal budget deficit will be on a predictable downward path not to exceed \$150 billion by 1998, and possibly even into balance by the year 2000, or slightly thereafter. The drain of high annual deficits and interest on existing National debt will begin to subside beginning in 1994, not four or five years from now, as proposed under current budget actions by the House.

Anything less than what is proposed in this act is simply avoiding the basic reason why elected representatives are sent to Washington in the first place, which is to make the hard decisions on fiscal matters. Complex or not, the deficit problem is with us, and this is a constructive solution to the problem.

I thank the Chair.

[The prepared statement of Mr. McMillan is printed in the Appendix.]

Mr. DREIER. Alex, thank you very much.

That is a very fascinating proposal that you have offered. I am particularly drawn to ways in which we can address this question

of legislation in appropriations bills. Your idea of a freeze is something that certainly is worth looking at. Your have experience as a senior member of the Budget Committee, and also on the Energy and Commerce Committee. Are you on the Health subcommittee of Energy and Commerce?

Mr. McMILLAN. Yes, I am.

Mr. DREIER. So your experience in both places certainly provides you with a unique background from which to address this problem.

Ms. Dunn?

Ms. DUNN. Thank you, Mr. Chairman.

I have no questions. Thank you for your testimony, Alex.

Mr. DREIER. Ms. Holmes Norton?

Ms. HOLMES NORTON. Thank you, Mr. Chairman.

I regret that I wasn't here to hear the entire testimony, but I very much appreciate what I did hear, Representative McMillan.

Mr. DREIER. Thank you very much, Alex.

It is something that we certainly will be looking at as we proceed here. The information that you had, the graphs that you would like to have included in the record, will be included without objection.

Mr. McMILLAN. I thank the Chair.

Mr. DREIER. Thank you very much.

At this time, I have to go upstairs to a Rules Committee meeting on the foreign aid appropriations bill, so I'd like to turn the gavel over to Ms. Holmes Norton. In order of the schedule here, first Mr. Pallone, then Mr. Burton, then I see Mr. Gilchrest here. That is our order here.

Thank you.

Ms. HOLMES NORTON (assuming Chair). I am pleased to continue with the hearing. May I remind Members that in fairness to the many Members that desire to testify today, I'd like to hold you to the 10 minute limit. We will receive your entire testimony for the record, and ask that you speak no more than 10 minutes.

I am very pleased to welcome my good friend, Representative Frank Pallone.

STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Madam Chairwoman.

I do have a written statement which I would like to submit. I will try to summarize it, if I could. I probably won't be more than about three or four minutes, frankly.

I am testifying to express my opposition to the possible elimination of the committee on Merchant Marine and Fisheries. I understand that in discussions about reform in Congress and the committee system, a proposal has arisen which would abolish the Merchant Marine and Fisheries Committee, and transfer its responsibilities to a number of other existing committees.

I wanted to point out that I am a member of the Merchant Marine and Fisheries Committee and have been so since I started in Congress about five years ago. I don't feel that I am just here for my own purposes, because my understanding is that some of the things that have been proposed include transferring jurisdiction of that committee to either Energy and Commerce, which I now serve

on, or possibly Public Works and Transportation, which I have served on with you Ms. Norton in the past.

I just honestly feel that this committee has a very important purpose in Congress. It really was the committee that I was most interested in being on when I first got here. I fear that the elimination of the Merchant Marine and Fisheries Committee would really result in far less effective treatment of the issues that are now under its jurisdiction.

The expertise that the staff has I don't think compares on the issues that the committee deals with with some of the other committees. I also fear that essentially scattering these issues among several other committees will result in a dilution of the focused attention they deserve. Without the committee's expertise, the institutional memory, and importantly, its focused jurisdiction over the Coast Guard, fisheries, shipping, other environmental and living resource issues, I think the legislation in those areas would suffer, and oversight in particular, of the Federal agencies concerned would slip.

Right now we really are facing a crisis when we talk about our natural environment and also about our maritime industry and our fisheries industry. I just don't think it is the time now to eliminate the focused expertise the committee has.

I would point out, and I am sure you are aware, that the freshmen members of our committee have suggested changing the name of the committee to the committee on Marine Affairs and Environmental Policy. I would very much support that, because I think it more accurately represents the actual jurisdiction of the committee. If you look at what we have been doing over the past decade—and I have been here for about half of that — environmental and conservation issues have really dominated the committee's agenda. That name would really reflect that.

That is the end of my prepared statement, Madam Chairwoman. But I just want to add a few things off the cuff, if I could.

I was a member of the Aging Committee for the last four years, until it was abolished in this session of Congress. I am also on the Health subcommittee of Energy and Commerce. When we were arguing against the abolition of the Aging Committee, there were a lot of statements made about not really needing it, because for example when you are dealing with senior health issues, those issues can be effectively dealt with in the Health subcommittee of Energy and Commerce.

Even at the time when we were arguing over it, I remember that Chairman Henry Waxman argued against that. He said that wasn't the case; that the Health subcommittee wasn't going to be able to take on the aging issues that the Aging Committee dealt with.

I have found that to be very true. When we abolished the Select Committee on Aging—I could be wrong, and I would stand corrected—I don't really think that we have actually had a hearing in the Health subcommittee specifically on an aging issue. If we have, it may have been one hearing, but I don't even remember that.

The types of things that the Aging Committee did, for example, were constantly having hearings, oversight over the agencies that deal with senior issues, particularly in the health care concern.

That loss is particularly noticed by me right now when we are dealing with the whole health care reform issue. We have not been able to focus so much on senior health care.

I fear the same thing would happen with Merchant Marine and Fisheries. For example, in our Fisheries subcommittee right now we have been having a whole series of hearings on the Magnuson Act, which regulates fisheries jurisdiction for the whole country. I can't imagine that any other subcommittee in Congress would give the sort of unified and concerted attention to the reauthorization of the Magnuson Act the way the Fisheries subcommittee would.

In fact, if you look at the Merchant Marine and Fisheries Committee in general, each of its subcommittees has a very distinct jurisdiction, and is really jam-packed with things to do right now. We have had hearings; we have had legislation on so many different issues. I just can't imagine that if you scattered that, that you would get the kind of concentrated attention that is necessary.

Lastly, let me say another thing. When people come to Congress—you may ask some of the freshmen about this—oftentimes they come here because they are interested in a particular area. Over the years, as you know, it is true with a lot of the minor, or non-major committees, if you wanted to get on Merchant Marine and Fisheries because you were interested in coastal issues, or fisheries, or marine environmental issues, it wasn't that difficult to get on it. That was something you could try to do, and you probably would get it.

If you scatter the jurisdiction and put a lot of those issues under other committees—and I'll use my own, Energy and Commerce, for example—it is very difficult to get on the Energy and Commerce Committee. Until this year, it was rare that a freshmen member even was able to get on it. You are going to get to a situation where the people who have expertise and really want to deal with a particular issue would find it difficult to even get on the committee where that issue has the jurisdiction.

I am very concerned about that. I think that as you look at this whole reorganization, you have to look at not only how much attention a particular committee would give to a particular issue within its jurisdiction, but also the fact that Members should be free, if they have expertise, to be dealing with the issues that concern them. That may not necessarily happen if some of the committees, particularly the Merchant Marine and Fisheries Committee, is abolished and its jurisdiction scattered.

That is all I wanted to say today. I know you are giving a lot of attention to these things. I am only talking about one specific aspect, but it is something that I think is very important.

Thank you.

[The prepared statement of Mr. Pallone is printed in the Appendix.]

Ms. HOLMES NORTON. Thank you very much, Representative Pallone.

May I ask how many members are on the committee now?

Mr. PALLONE. Frankly, I don't know. I probably shouldn't guess, but I would imagine there are about 35 members. To my knowledge, we don't have any openings. We don't have any vacancies,

certainly on the Democratic side. I don't think on the Republican side either.

Ms. HOLMES NORTON. You make important points, especially about oversight that I think the committee may not have looked at as deeply. I assure that the committee will, and very much appreciate your coming forward to offer this very useful testimony this morning.

Mr. PALLONE. Thank you.

Ms. HOLMES NORTON. May I call Representative Dan Burton? We are pleased to welcome Congressman Burton.

STATEMENT OF HON. DAN BURTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. BURTON. Thank you, Madam Chairman.

I can see that many Members are unable to be here because of other business. I hope that they have the ability and benefit of all of the testimony today. I appreciate your being here.

Ms. HOLMES NORTON. Let me assure you that the committee is going to have a retreat shortly. We will be briefed thoroughly, particularly because so many Members have to scatter at certain parts. Your testimony is very much sought after. I will personally make sure that your testimony and that of those who testify today is brought to the attention of other Members.

Mr. BURTON. I appreciate that. I'll try to be abbreviate my remarks, because I think you are probably a little behind schedule. I have to get up on the floor anyhow. I would like to submit a lot of my statement for the record if it is alright.

Ms. HOLMES NORTON. Without objection, your prepared statement will appear in the record.

Mr. BURTON. Madam Chairman, the leadership of the House, the Democrat leadership, through the Rules Committee has been stifling free and open debate on the House floor. Republican and Democrat Members are being denied the right to offer amendments to major pieces of legislation, not because of time constraints—here we are in June, and we really haven't done much for the first five months of this year—but because members of the majority, and I suppose some members of the minority, don't want to vote on some controversial issues.

Of the 18 major bills brought to the House floor this year, 13 have been debated under very restrictive rules, 72 percent. If you look back 10 years ago, you will find that only 32 percent of the bills were debated under restricted rules, and 68 percent had open rules. I am going to submit for the record, from the 95th Congress on, you will find that there were 85 percent open rules in the 95th Congress, and during this Congress it has been reduced to 28 percent. That must be changed. The people of this country want the major issues debated and they are not being debated.

One of the more important bills that has been closed was the Omnibus Budget Reconciliation Act. There were over \$400 billion in new taxes and fees, and they allowed only one amendment. The American people, I think, are very concerned about their taxes, and would have liked to have heard some alternatives to the proposals that were being made.

Of the 270 amendments submitted to the Rules Committee this year, only 52 have been approved for floor action. Among those amendments that have been denied a vote were a Constitutional amendment to require a balanced budget, which most Americans feel is very important; an amendment retaining the ban on the HIV positive immigrants from permanent admission to the U.S., at a cost of over \$150,000 per person, as far as health care costs are concerned—I think most Americans would like to keep the rest of the world's HIV patients from coming to this country for health care—an amendment retaining the ban on homosexuals in the military—I'm sure they would like for us to debate that issue on the floor of the House—an amendment rescinding \$1.96 billion in pork barrel projects—now, these were pork barrel projects and we couldn't even debate it on the floor of the House—separate amendments to the reconciliation bill deleting the energy tax and the social security tax.

These are big issues that the American people, I believe, want debated and voted on, so they know how their representatives feel about these issues. I think that one of the reasons we have these closed rules is because a lot of members don't want to vote on crucial issues and go back home and have to explain those to their constituents. You can see that by the percentage of increase in closed rules. As a result, the American people really don't know how their representatives are voting. They are voting for advertisements instead of action.

The three-day layover requirement: I'd like to show you, Madam Chairman, this is the rule on the Budget Reconciliation Act. This is the Budget Reconciliation Act. We are required by law to have three days to review these. Now you, being a law professor, know that you tell your students, "Read the fine print." This is the rule, with self-executing amendments. I submit to you, not one Member of the U.S. House of Representatives, including the Rules Committee, knows all that was in this rule.

This is the bill. They waived the three-day rule. We had less than 24 hours to find out what was in these two bills; the rule, and the actual bill itself. I think that is unconscionable. Lord only knows how many billions of dollars were wasted and how many terrible rules and regulations were added to our statutes by this legislation, and we won't know probably for months or years to come.

This is not isolated. At the end of almost every session, we have some kind of an additional spending bill. We get it in the 11th or 12th hour. It is wrapped in string. Ronald Reagan stood up before the floor of the House in one of his State of the Union speeches and showed it. It weighed 14 pounds. We had less than 24 hours to review that. The law says we are supposed to have three days, and we continually waive those rules. I think that is unconscionable.

The other thing I would like to talk about, then I'll yield the floor, is the power of the Appropriations Committee without sufficient checks and balances. The number of pork barrel projects and appropriations bills has increased dramatically over the last 10 years. This has really contributed significantly to our deficit problems.

Because Federal spending in every Congressional district goes through the Appropriations Committee, the Members of the committee can exert pressure on any Member to oppose amendments cutting spending or killing pork barrel projects. There is an unspoken threat that any Member who opposes the Appropriations Committee will lose possible funding in the future for his or her district. This is like a sword of Damocles that hangs over all of our heads.

I have had pork cutting amendments—out and out pork—amendments to cut spending, one as high as \$700 million. I stood at the door passing out explanations of what the amendment would do, and on the other side of the aisle there was a member of the College of Cardinals, the Appropriations Committee, standing there saying, “Don’t you have a bridge project you want in your district? Don’t you have a road project you want in your district? Don’t you have something else you want in your district?” The implication was that if the Members didn’t vote against my amendment, that they might, they just might not get what they want out of the Appropriations Committee.

That is contributing greatly to the deficit. It is unconscionable. We need to review that, and change that. Someway, it has to be changed.

One of the subcommittees has taken steps to do that. They are to be commended. This is a subcommittee of the Appropriations Committee. The Transportation subcommittee, under Chairman Bob Carr and Ranking Republican Frank Wolf, has done this. This year for the first time they developed a list of investment criteria that every single project has to meet before it is even considered, investment criteria that all demonstration projects must meet in order to be funded by the bill.

Establishing hard and fast criteria is a step in the right direction. They can do that within the budget constraints that are set forth in the budget that is sent to the Congress and passed by the Congress. If we have \$50 million to spend in a certain area of Government, and we have a hard and fast criteria by those subcommittees of Appropriations that are dealing with it, and we have \$100 million in submissions, they can set priorities. By using that criteria, we can keep within the budgetary constraints of the budget agreement, and stop this runaway Government spending.

Congressmen Carr and Wolf should be commended for their efforts to depoliticize the appropriations process. Each subcommittee should follow their example and develop a similar list of criteria in order to reduce the number of wasteful projects that get funded by the House, and assure the taxpayers that their money is being spent wisely.

I would submit, Representative Norton, that your committee take a very close look at what this subcommittee on Transportation is doing. If you could convince all 13 of the Appropriations subcommittees to do the same thing that Bob Carr and Ranking Republican Frank Wolf are doing, I think it would really reduce Government spending, and set some parameters that we all could live with.

With that, Madam Chairman, I would be happy to answer questions, if you have any.

[The prepared statement of Mr. Burton is printed in the Appendix.]

Ms. HOLMES NORTON. Thank you very much, Congressman Burton.

I do note that today there are two appropriations bills on the floor, and 28 amendments between them. You, of course, are aware that one of the major impetuses to this very committee was gridlock. Do you imagine if we had open rules that we'd have this kind of outflow of amendments, and if so that we would ever get out of here during a session of Congress, or ever get anything done, but might risk getting thrown into greater gridlock than we have already experienced?

Mr. BURTON. In the 95th Congress, we had 85 percent open rules, and in the 96th it was 75 percent. It has deteriorated down to 28 percent.

We come in in January. You know that we really don't do much around here until about the first of April.

Ms. HOLMES NORTON. That has a lot to do with hearings.

Mr. BURTON. I understand that, but the authorization bill for foreign affairs—I am on the Foreign Affairs Committee—the foreign affairs authorization bill could have been handled in a much more expeditious manner. We could have brought that to the floor at least a month ago, and had an open rule. There are a lot of things that should be debated.

One of your colleagues, Mr. Torricelli, has a cargo preference bill that is very important, not only to transportation, but to the security of this Nation. They have not allowed him to debate that before the full House this year. Last year it passed, and it passed the year before that.

I think it is unconscionable. It is because some Members don't want to have to put a hard vote up on that board. It is my opinion that we should have a very business-like attitude around here, and a very business-like schedule. When we come in in January we ought to set time schedules, and we ought to adhere to them. We ought to do that through the authorization process and the appropriations process. For us to say that we can't get it done is to admit defeat. I just don't believe that.

Ms. HOLMES NORTON. The comparison between open rules in past Congresses and today has been made before. One of the things I'd like to see the committee do is to try to account for those differences with some degree of scholarship. I think it is an important point that has been raised. It has not been adequately explained.

You have prophesied a reason. I am sure that may indeed be a reason for many Members, but I would like to know—I hope the staff is listening—for example, if there is considerably more business today than there was then, as we have seen with mail, for example. I am now only in my second term, and I have seen this extraordinary escalation of mail in one session. We need to, in fact, look closely at the differences; see if they can be explained; if they cannot be explained by any objective criteria, like the press of business, then I think that does raise serious questions.

I thank you very much, Congressman Burton, for a very useful testimony.

Representative Wayne Gilchrest?

I am very pleased to welcome my good regional colleague, Representative Gilchrest.

**STATEMENT OF HON. WAYNE GILCHREST, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MARYLAND**

Mr. GILCHREST. Good to see you, Madam Chairman. Thank you for allowing me to testify today.

I want to just reiterate something Representative Pallone said, because I am on the Merchant Marine and Fisheries Committee. I want to give that a plug. It is one of those committees that is very productive and useful, and does act in an expeditious manner.

I quite coincidentally, Madam Chairman, am following Mr. Burton with a very similar proposal. So, if you would bear with me please, it also deals with the Rules Committee. I think I may have some answers to some of the questions that were raised.

I am here today to testify about a bill that I have introduced that will bring free and open debate to the House floor. I hope the Joint Committee will take a very close look at this idea and consider it as part of a real possible comprehensive plan to change the way the House does its business.

The bill I introduced would require a 60 percent majority vote to adopt a rule which prohibits consideration of any germane amendment filed with the Rules Committee at least three days before consideration of a bill. Such a change would not turn us into the Senate, so that Members could stall consideration. It would simply require the majority to consult with the minority to bring a rule to the floor. Rules could easily restrict amendments if the leadership of both parties were consulted. There is no guarantee of debate time for any amendment that is given.

At the risk of stating the obvious, the House is a democratic institution only because the people have the opportunity to impact legislation through their representative. But far too often lately, the adoption of rules for consideration of legislation precludes this, as Members are prohibited from offering germane amendments which are very often worthy of discussion.

Although at first glance it would appear that closed rules primarily impact Republican Members, many Democrats are also being gagged. The increasing frequency of closed rules is rapidly eroding, in my judgement, the ability of Members to modify legislation and the right of the House to consider proposed modifications. Furthermore, such rules detract from Congressional accountability, as Members are no longer required to vote on specific provisions of legislation.

By allowing more amendments to come to the floor for a vote, Members would be far more accountable to their constituents back home. Members would have to take a position on specific provisions of legislation that is often controversial. The opening up of a debate would actually give Members the opportunities to explain the reasoning behind their votes rather than simply trying to supply explanations for an up or down vote on very complex legislation.

Some may argue that our current system was set up to ensure that the majority remains in control. I agree that it is the right of

the majority to have the votes to either pass or defeat amendments. My intention, however, is to simply bring specific provisions of controversial measures to the floor for consideration by allowing germane amendments to be offered and discussed.

Another argument may be that some Members could pre-file dozens of germane amendments and effectively block consideration of a bill. One possible means to address this would be an alternative mechanism whereby the House could, by simple majority, adopt a rule permitting a certain number of amendments, perhaps just three or four, from each side of the aisle, taken from Members in order of party seniority, with substitutes and en bloc amendments allowed. The Joint Committee may also want to exempt from this requirement, as far as open or closed rules are concerned, reconciliation legislation, the annual budget resolution, or legislation, such as actions under the War Powers Act, with significant impact on National security.

I should emphasize, however, that the proposal discussed above is not part of the bill. It is simply one possible modification that the Joint Committee may wish to consider.

Before this session of Congress, the problem of closed and restricted rules was something that only Members of Congress, or those very closely associated with it, understood. Now, many American voters are becoming keenly aware of the rules process through C-SPAN. As I travel my district, many people becoming familiar with closed rules are keenly offended by it.

The public wants to know why relevant amendments are not even allowed to be debated on the floor. They are concerned that they are not made aware of how their representative feels on specific provisions of controversial legislation.

Madam Chairman, in conclusion I would like to say that I do not pretend to be an expert on the Rules Committee. I am a relatively new Member of Congress. I think, Madam Chairman, you and I came together to this illustrious body. But I would simply take this opportunity to offer my suggestions.

I recently met a fellow that I hadn't seen for more than 25 years. We were enlisted people together in the Marine Corps, very young, naive people 25 years ago. He stayed in the Marine Corps, and now is a colonel. He never thought I would ever be a Congressman.

Ms. HOLMES NORTON. And you never thought he would be a colonel.

Mr. GILCHREST. Well, you are right. I figured he was going to get out and go over to work at Sparrow's Point in Baltimore, work in steamers.

Anyway, I said, as we were leaving this rather unique reunion after so many years, "You know, after all these years, you have attempted to make the world safe for democracy. Now, what I am trying to do is make democracy work."

With that, Madam Chairman, I will take any questions that you may have.

[The prepared statement of Mr. Gilchrest is printed in the Appendix.]

Ms. HOLMES NORTON. Thank you very much, Congressman Gilchrest.

Indeed you are trying to make democracy work. I want to commend you, if I may, for your problem-solving approach to this question which is raised over and over again before the Joint Committee, with very little in the way of remedy. It is a difficult question. You acknowledge the right of the majority, and I think some of the suggestions you have offered are unusually useful. I want to thank you for taking the time to come and offer them.

Mr. GILCHREST. Madam Chairman, thank you very much.

Ms. HOLMES NORTON. I am very pleased to welcome my good friend, Jim Slattery, and to hear his testimony.

We are doing well, but when you consider that these are Members of Congress speaking we are doing a good job keeping to our schedule.

STATEMENT OF HON. JAMES SLATTERY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. SLATTERY. I intend to even get you closer to your schedule. I will be brief today.

I really appreciate, Madam Chairperson, your spending countless hours on this committee listening to the testimony of our colleagues day after day. I really appreciate it, and I am looking forward to hearing the recommendations that this committee might ultimately come up with.

The idea that I bring to you today is one that has been around for a long time. In fact, after doing a little research I learned that between 1789 and 1990, no fewer than 215 such proposals have been made to the Congress of the United States. Of course, what I am referring to is H.R. 41, which embodies a very simple idea. That is that it is time for us in this country to change the length of term for Members of the House of Representatives.

The idea of our being elected for two-year terms, I believe, is outdated, and that is what my proposed amendment to the Constitution would achieve. I am suggesting that our terms should be for four years. We should be elected concurrently with the President of the United States. In addition to that it further provides, in an effort to win Senate support for this idea, that when and if a Member of the House of Representatives announces his or her candidacy for the United States Senate, it is time to resign from the House of Representatives.

As you might imagine, I don't believe our colleagues in the Senate would relish the prospect of Members of the House having a free shot at them every once in a while without fear of losing their seat in the House of Representatives. So unlike the last proposal that really received serious consideration in this regard—and that was in 1966 when President Johnson made a similar proposal—that proposal did not include the provision that if a House Member sought election to the Senate, they would have to resign from the House.

I think that that is one way, hopefully, we can win some Senate support. I know some of our colleagues probably aren't to this point. They think this is maybe an idea whose time has not yet come. Perhaps the time has not yet come, but let me in the few

minutes that I have, make a very cogent argument for changing the length of term for House Members.

First of all, we don't need to look any further than our county commissions and some of our city councils all across the country to realize that most people seeking public office in this country today are being elected to four year terms. I would point out that at the time that the two year term was set, it was a time when people worried about whether they could communicate back to their district in Virginia on horseback or not, and going to Charlottesville was a long way and a lot of travel from Washington, DC.

Today with instantaneous communication we are in constant communication with our constituents, as we all know. We can communicate to our districts in a matter of a few hours, regardless of where it is in this country, unlike the situation 200 years ago.

But beyond that whole question, the four-year terms will provide Members with an opportunity to be more long-term thinking in their approach to legislation. Unfortunately, far too many of our decisions are motivated not by what is good for the next generation, but rather by what is needed for the next election, which happens to be just right around the corner for most Members of the House of Representatives.

In addition to that, we have probably even become more short-sighted because we respond so promptly to the 6 o'clock news, and to the latest polls, or the latest news. That's the kind of thing we need to change. A four-year term would help this institution become more long term thinking. We desperately need that if we are going to shape the kind of policies that we need in this country.

I would observe that last week, when we were trying to find 218 of our colleagues to vote for a very tough deficit reduction plan, many of our colleagues on both sides of the aisle were very reluctant to vote for that proposal for fear that they didn't have enough time to explain it to our constituents, nor would we have an opportunity to demonstrate to our constituents that in fact some good things would come of tough deficit reduction.

I think that it is important for all of us to realize that the essence of leadership, really, is being able to motivate people in the short-term to do things they don't want to do, so that they will be able to achieve in the long-term what they want. That is the essence of leadership. With two year terms and with instantaneous communication in this country today, we really don't have the opportunity to do that sort of thing. I think that is one of the key reasons why we should consider lengthening our terms to four years.

In addition to that, I would point out that a four-year term will achieve something else that is very important; that is something the American public is very concerned about. That is the whole question of the money-chase involved in American politics at the National level, and all over for that matter. The fact that Members of Congress have to run every two years, as opposed to every four years, it means that they have to be out raising all this money every two years. I am convinced that if we lengthen terms you would cut the money-chase in half.

When we look at the whole question of campaign finance reform, I think we should be looking at this fundamental change, and un-

derstanding how it would have a dramatic effect on the amount of money that flows through this political system.

Those are the two principle reasons, Madam Chairperson, that I think that this idea is one that should be given careful consideration by this panel. I would also observe that when you go back to your district and talk to people at the Rotary Club, or whatever group you want to speak to, and talk to them about this idea, most members of the public look at us and say, "Why in the world don't you have four-year terms? Why aren't you back there trying to do something to change that, so that you would have more time to do the good legislating that we desperately need, coupled with the good oversight that is desperately needed in this country?"

I am convinced that the four-year term will give us the time that we need to do a better job of legislating, and the time that we also need to do a much better job, and a much more thorough job of oversight. At the same time, with the instantaneous communication that we have in this country today, I don't think we need to worry too much about getting detached from our constituents. The idea also of electing Members of the House concurrently with the President will hopefully give us a chance, and the public a chance, to make a broader statement about what direction they want to see this country take.

Truly, the election of the entire House of Representatives, concurrent with the presidency would enable the American public to make a strong statement about change. It would also enable the American public to hold those in power more directly accountable, I contend, for the direction the country is taking.

For all those reasons, Madam Chairperson, I would strongly urge that this committee take a careful look at this, and not just summarily dismiss it, which perhaps some senior Members may be inclined to do.

I'd be happy to answer any of your questions.

[The prepared statement of Mr. Slattery is printed in the Appendix.]

MS. HOLMES NORTON. Congressman Slattery, I want to thank you for a dramatic and bold idea, and want to assure you that the committee is looking for dramatic ideas that don't simply send the message back from our conclusions that we want a little bit of change at a time when the country seems to want a great deal more of change.

MR. SLATTERY. Well, this is one.

MS. HOLMES NORTON. I ought to say for the record that there may be some Americans who, hearing a Member of Congress advocate longer terms, would regard that as self-serving. Nobody who knows Jim Slattery personally would, in fact, say that, but I want to say here that the logic of the idea is so well developed I think it must get the attention of this committee.

As I listened to you I thought of a number of absolutely recalcitrant problems that might be solved in one sweep were there longer terms; the notion of campaign financing, which is completely stopping the Senate now, the inability of the two parties to come together on that, obviously this problem would become less urgent; the notion of special interests, because people have to relate to those who are going to support them every two years in order to

make sure they come back, and that may indeed inject some special interests concern into their lives; the idea of too many committees, because you want to get on as many committees as you can because you want to deliver as much as you can in the two years that you know you have here.

Yes, Members of the House are put on very short leashes. As one whose district is this district, as I see my colleagues dash out of here on Thursday evening, I am sure that the American people have no idea what kind of wear and tear it is on people to spend their lives traveling back and forth every weekend. I talk to Members who are from California, Texas, Oregon, the far reaches of this country, who go back every weekend. Is that the most efficient use of a Member's time? Yes, if you have to run every two years.

You mentioned the long-term and the short-term. We preach to the private sector that your problem is that you focus on the short-term and that is why our country is going down the drain. You have to look for long-term gains; that is how you build a country and build an economy. But we certainly don't look to long-term gains. We are running every two years and looking literally two days ahead of ourselves, rather than a few years ahead of ourselves.

I don't know where this would stand with the Members of the committee, and I certainly don't know if the American people would be prepared to hear this from the Congress without simply assuming that we want to stay here a longer period of time. I want to assure you that this committee, which is taking this testimony down verbatim, will give ample attention to what I believe is a very thoughtful proposal.

Thank you very much, Congressman Slattery.

MR. SLATTERY. Thank you, Madam Chairperson.

Let me just observe also that I think it is time for the Congress to also have a thorough debate of the whole question of term limits. In the context of a change like this, perhaps we should consider some kind of a limit on terms. Maybe Members would be limited to serving three or four consecutive terms, perhaps. I'd be willing to debate that, and talk about the pros and cons of that sort of thing as part of this kind of a reform, also.

MS. HOLMES NORTON. What you are saying is that you balance the notion of extending our time here with the notion of reducing the ultimate terms here.

MR. SLATTERY. That is correct. I think there is a balancing factor there that makes a lot of sense.

I would also just observe that, and I don't think many of our colleagues may fully appreciate this, but in 1912, when we set the number of the current Members of the House of Representatives at 435, the average number of constituents in a Member's district at that time was 211,000. That was in 1912. You had to represent 211,000 constituents on an average. Of course, some of the districts were much smaller than that before Baker versus Carr, as the gentlelady knows.

Then in 1992, with 435 Members, the average size is 575,000. In my district, for example, we have 620,000. That is a dramatically different situation than existed when the number was set at 435. Granted we have much better communication capability and much

better computer capability that enables us to communicate much better, but I think it is important for us to realize what has happened to the country in terms of the workload on an individual Member of Congress.

I believe very strongly that the American public is prepared to support something like this. I think that common sense dictates that if Members had four year terms, they would be able to take a much longer-term view of their responsibilities, and be willing, hopefully, to cast some tough votes that were in the country's long-term best interest, perhaps in their own short-term political risk, but in the country's long-term best interest.

I am also inclined to think that it would give Members an opportunity to be more thoughtful in approaching their responsibilities. I have often observed, and I'll conclude with this, that this institution does want for more information. We want for more time to assimilate the information that we already have at our disposal. When we are candid with each other we have to acknowledge that when we are frantically running back to our districts and back to Washington—I go back to my district every other weekend, some months it is every weekend, to Kansas—it is a pace that is not conducive to deliberation. Let me put it that way.

Again, I think that this is an idea whose time has come, even though perhaps some of our colleagues aren't willing to talk about it yet. But I think it is one that needs to be on the table.

I thank the gentlelady for her patience and time today. Again, I appreciate the work that you are doing on this committee.

Ms. HOLMES NORTON. Thank you very much, Representative Slaterry.

I see that the next Chair in sequence has arrived promptly. I am not surprised. He is always on the case.

Mr. SLATTERY. Maybe he has some questions.

Ms. HOLMES NORTON. Not having heard your testimony, even Bob Walker may not have questions not having heard your testimony.

Mr. WALKER. Probably we should have a debate over four year terms. I'm not sure I'm for that as a concept.

Ms. HOLMES NORTON. Bob, he was willing to pair it with term limits. You might be more interested in that case.

Mr. SLATTERY. Thank you, Madam Chairperson.

Ms. HOLMES NORTON. Thank you very much, Representative Slaterry.

I would like to turn the Chair over, now, to my distinguished colleague, Representative Bob Walker.

Mr. WALKER (assuming Chair). Thank you very much, Madam Chairman.

I assure you that I am on time. It is such a thrill for Republicans to get to Chair anything in the Congress that we certainly want to be on time, but I thank you very much.

[Laughter.]

Mr. WALKER. I understand our next witness will be Representative Steve Buyer, from Indiana. We welcome you and look forward to your testimony.

**STATEMENT OF HON. STEVE BUYER, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF INDIANA**

Mr. BUYER. Thank you, Mr. Chairman.

Mr. Chairman, I request that my written statement be inserted in the record at this time. I'd like to summarize my written testimony, and add some oral recommendations, if I may.

The witness just before us, Representative Slattery, talked about going home and meeting with the people. I, in fact, just returned from Indiana, Mr. Chairman, where I have had town meetings in over 16 counties. The people of Indiana have many concerns that are no different now than what they were a year ago. In particular what I recognized was what I call a trust deficit between the people and their government. You can also characterize that as a recognition of a lack of responsiveness of the government to the people.

When someone stands up at a town meeting in Indiana in front of 100 people and says, "Steve, who can we trust anymore in Washington in the Administration and in the leadership of the Congress?", that sends a tremendous signal to me.

On the concerns that are brought up in my written testimony, I know it is redundant to this committee, so I don't want to go into detail. There are many things of which the entire freshmen class, Republican and Democrat, adopted which deals with the idea that Congress must live by the laws it passes for everyone else.

Number two, the placing limits upon the franked mail privileges are extremely important. Number three, on the term limitations: I support four-year terms. I would say no more than three four-year terms in the House, and no more than two six-year terms in the Senate. I am a co-sponsor of that amendment to amend the Constitution.

Also, I supported the rotation of the committee Chairs, which the Republicans have adopted, not only the committee Chairs, but also the Ranking Members. Hopefully, the majority will also recognize that that is extremely important to bust the power nests that we have here in the Congress; also, the concerns of the overlapping jurisdictions and the time requirements upon Members, and the parity between the majority and minority staffs on committees, and budget concerns to make sure there is parity also in the budget.

But what I'd really like to focus on here is on the rules and the Rules Committee. Mr. Chairman, call me naive, but I believed that the floor of the House of the Congress would be the arena of the greatest open debate and exchange of ideas in the world. I believed that. Now, as a Member of Congress, I have to go back to Indiana and say that the floor of the House of the United States Congress is the most undemocratic institution I have ever seen.

Now, that is a very sorry statement of what is happening. When people complain about lack of responsiveness, it is not so much by Members of the Congress to the people; it is that there are members of both parties, Republicans and Democrats, who are getting shut out of the process. Only the agenda of the leadership of the Congress is being heard. If you go along with them, then you can get heard. If you don't go along with them, you get shut out of the process. It is wrong.

A gentleman, a Congressman, said on November 1, 1942, in a radio address, "It is in the Congress that the very needs and interests of the people find expression. It is in the Congress that out of the clash of contending opinions is forced the democratic unity of a democratic people. Too many people mistake the deliberations of Congress for its decisions.

"Common consent in democratic government springs from common understanding. It is out of the airing of conflicting opinions in hearings, debates, and conferences that a people's Congress comes to decisions that command the respect of a free and democratic people.

"Now, all the measures which emerge from the Congress are not perfect. Not all measures are perfect, not by any means, but there are very few which are not improved as a result of discussion, debate, and amendment. There are very few that do not gain wide spread support as a result of being subject to the scrutiny of a democratic process."

That gentleman was then the Speaker of the House, Sam Rayburn.

I wanted to share that with you. In fact, it has changed immensely since 1940. One of the most shocking experiences, as a new Member never having been involved in politics, was what happened on the family leave bill when there was a waiving of the two-thirds requirement, as you recall, Mr. Chairman, by simple vote of the majority.

I wouldn't even do that to the Kiwanis Club back in Indiana. I wouldn't even propose that in my own church. Here they did it in the United States Congress.

We can make a lot of complaints about the Rules Committee, and I recognize the importance of the committee, but right now, the Rules Committee is shutting out the access of members of the majority and minority party.

Constitutionally speaking, we all represent equal quantities. Our districts are the same, roughly, numerically. We should all have the same right to have our voices heard. We should have the same ability to access the legislative process. My ideas should be given the same merit of being heard as other Members of the body. I am willing to face the criticism of the exchange of open debate of ideas, because it will produce a better legislative product.

As we look at this, in the 95th Congress, from 1977 to 1979, 85 percent of the rules granted were open. In the 103d Congress today, 26 percent of the rules are open. We know that those are the unimportant bills that come to the House floor. For the rest, they waive rules, and they restrict rules, and they waive points of order.

Let me share with you some of the possible solutions I have to the travesty, Mr. Chairman. Number one, require a three-fifths vote to waive any rule in the House, so we wouldn't have that simple vote of the majority that would waive a super-majority rule.

Number two, to have all committees reflect the proportional makeup of the congress. That is important whether it be Appropriations or Ways and Means, and also to have that proportionality likewise in the staffing.

Number three, when it comes to the Rules Committee, germane amendments should be permitted, while the Rules Committee can

structure debate and time, a required timely filing of germane amendments should not be restricted by rule.

Another is for the rules that restrict germane amendments, a super-majority, a three-fifths vote, should be required to pass a rule on the House floor. The Rules Committee should reflect the ratio of the membership of the House as a whole, and require a three-fifths vote to report a rule to the floor.

These are constructive changes that will force the majority and the minority parties to work together. That is what is extremely important.

After the family leave bill, a Member turned to me and said, "Steve, this is the most partisan I have seen the Congress in well over 25 years of having been here." That means that we need to do some things that are constructive, to break away from those party ruts, and bring the parties together.

When you require the three-fifths vote, you require in the Rules Committee to sit down and talk, and to work them out, rather than the Rules Committee to be that extension of arms of the leadership of the Congress. Not since 1910, when the Speaker of the House, then Speaker Cannon, when the Republicans were in control in 1910; he Chaired the Rules Committee. At that time there was tremendous linkage between the Rules Committee and party organizations. There was a revolt from the grass roots level, and the Speaker was thrown out of the Rules Committee. We had changes, and in the next election, the Democrats took control of the House.

We are on the brink of history right now. If the Democratic majority wants to continue to shut out people of both parties who want to play a constructive role in the Government, the Democratic party is going to find themselves in the minority.

These constructive rule changes that I propose, Mr. Chairman, are ones that I could live with being in the majority, because it forces the parties to come together in a constructive role for the betterment of this country.

Thank you.

[The prepared statement of Mr. Buyer is printed in the Appendix.]

Mr. WALKER. Thank you very much. I appreciate your testimony. As the gentleman knows, much of what he says about the rules process is something I have been concerned about for some time.

Let me ask you, though, do you think if the Republican Party were to become the majority party, do you believe that we would be willing, as a majority party, to have a Rules Committee which was proportional, given the nature of the Rules Committee being largely a leadership committee, and one that has to force the process?

The reason why I ask you that is, the majority party is in part also concerned about getting its legislation to the floor. The Rules Committee, for a period of time in the 1960s, was used as a place that stopped the appropriate committees from ever getting their legislation to the floor. It became a roadblock to bring the legislation to the floor.

Therefore, some of what you see growing up today came out of that kind of abuse.

Mr. BUYER. Mr. Chairman, I respect the right of the majority to set an legislative agenda. That is what we have happening in this country right now. The leadership of the Congress and the Senate, who for 12 years have felt that some of their pet projects, and things that they wanted, didn't get passed, and are now forcing a legislative agenda, even upon a President. They have to take some responsibilities of some stumbles in this recent presidency, also.

I respect the right of the majority to set a legislative agenda, but when that right shuts out the rights of minorities and of Democrats, who are the majority, who perhaps aren't going along with that legislative it is wrong. Shutting them out and not allowing them to play a constructive role, is wrong.

So, to your questions, if I were sitting in the majority, I recognize that if the Republicans were in control, that they could set an agenda, but likewise we should be open to the process of debate, and let the ideas of the Democratic Party, who would then be in the minority, to come forward and present an open exchange of ideas. In that open exchange of ideas will emerge a better document.

Mr. WALKER. Thank you. I appreciate your testimony very much.

Mr. BUYER. Thank you, Mr. Chairman.

Mr. WALKER. Our next witness is Representative Andrews of Maine. We welcome you, and await your testimony.

STATEMENT OF HON. TOM ANDREWS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. ANDREWS. Thank you very much, Mr. Chairman. It is a pleasure to be here.

Let me first of all express my thanks to you and the other Members of this very important committee. We have, of course, criticism about Congress and Government in general. Those types of criticism are about a dime a dozen. It is one thing to say what is wrong; it is another thing to take responsibility of outlining a procedure and a proposal to do what is right, and to propose some concrete, positive recommendations.

So for your willingness to engage in this process, and for the other Members being willing to engage in this process, I want to say, first of all, thank you.

Mr. WALKER. Thank you.

Mr. ANDREWS. My chief concern, Mr. Chairman, and the focus of my remarks this morning is about money; how the Congress budgets money, and how the Congress allocates money. Frankly, I can think of no area of reform that is more important to the American people than how this institution deals with their money.

Of the frustrations, Mr. Chairman, that I think that people feel about Congress, I can think of no greater source than that about pork barrel spending; that is, spending which is not based upon the National interest, but is based upon the power of individual Members of Congress. The public becomes aware of this practice through the periodic publication of examples of this type of spending. As a result, all other spending engages in, and indeed the institution itself, become as a whole, at best, suspect.

Pork barrel spending, as you know, Mr. Chairman, takes on many forms, but the dynamic of that spending, it seems to me, is fairly clear. Some Members measure their success in Congress on the basis of the amount of Federal money that they can bring home to their district. Of course, so do many of their constituents, leading to the popular definition of pork barrel spending as any unnecessary spending that goes on in someone else's district.

Money is earmarked for a particular Member's district, inserted into a bill. Other Members, then, of course, are expected to go along and support the overall bill. The message to go along with that spending comes in formal, and certainly less formal, ways; from a memo or a call that informs a Member how much money is in that particular bill that will go to that particular Member's district; or a less formal message often given to our newer Members of Congress that says that this is a very important bill. The powerful Members that are supporting this have very long memories, and we expect you to go along if you ever want to get along in this institution.

Inevitably, Mr. Chairman, some of the most egregious examples of wasteful pork barrel spending is identified to the public in news stories, and talk show hosts across the country teeoff on the United States Congress. Consideration of how we can reform Congress, I believe, will be far from complete unless we can thoroughly analyze this process, and consider every viable option that we can to try to reverse it.

That is what is the proposal, the suggestion, that I am making seeks to do, Mr. Chairman. I would like to advance this particular proposal as a basic idea, or basic concept. Many of the details can be worked out, and should be worked out if there is interest among this committee, and others, to pursue it. Mr. Chairman, I certainly would like to be part of the process of working out those details, but let me review with you the basic concept.

This proposal is based upon a measure that was created to take on the wasteful cycle of Federal spending on unnecessary military bases around this country. As you know, closing a military base, regardless of how unnecessary it may be, is not an easy task. The reason is, of course, what that particular facility means to an individual Member of Congress, and his or her district. As a result, actually closing a military base, has been for years nearly an impossibility.

The Base Closure and Realignment Commission was created to break this cycle and close unnecessary military bases. While the process certainly has been difficult, and it has not been without controversy, I believe, Mr. Chairman, that it has worked. In point of fact, it has closed unnecessary military bases, and in point of fact, it has saved the taxpayers of this country a significant amount of money.

Therefore, I believe, given that track record, it is worth considering using that process, and applying that process to other items of the Federal budget. I would like to submit to you, and for the record, an outline of how such a process could work.

Mr. ANDREWS. I would like to say, in summary, that this would be a proposal to create an independent, bipartisan commission, using the Base Closure Realignment Commission as a model, to

identify wasteful pork barrel spending in Congressional appropriations bills, hold this spending out for full public review, and require a separate up or down vote by the Congress before that particular spending can be finally approved.

The commission would be appointed by the President in consultation with the majority and minority leadership of both Houses of Congress. Criteria would then be established that defines pork barrel spending. This criteria could include appropriations which lack specific authorization, which would be appropriations that were added by a conference committee not approved by either the House or the Senate; appropriations that have no meaningful relationship to the act under which it is funded, or to the agency or program under which it will be administered; appropriations that are provided for a project which was not requested by the Administration and is to be awarded on a noncompetitive basis; or projects that are purely local interest, without National or regional importance.

The commission would then apply this criteria to appropriations bills and single out those items that meet this definition. A public hearing would then be held to hear the views of those who support the spending items, and believe that they do not in fact meet the definition of pork barrel spending. Then a final list would be approved by the commission and submitted to the President and to the Congress for an up or down vote on that entire package.

While I do not intend for this to be a permanent process of allocating resources in this institution, I believe that it could be instrumental in breaking the cycle of pork barrel spending, saving tax dollars, and renewing public confidence in the United States Congress. We have established a mechanism that works in controlling unnecessary spending in the base closure and realignment process. We know that it works. Why not put it to use to save additional taxpayers' dollars?

Finally, Mr. Chairman, I'd like to recommend as my second major recommendation for the commission, that we reform the Congressional process in a way that reflects how all solvent businesses, and most households in America deal with their budgets. Namely, that we establish a capital budgeting process, whereby we distinguish between capital investments on the one hand and operating expenses on the other.

Capital investments would be justified on the basis of their ability to generate new wealth, and therefore revenue to the budget. Operating expenses would be just that. The Congress would be prohibited from spending any more money in one year than it takes in that particular year.

Such a distinction, Mr. Chairman, would be invaluable in focusing our attention on the future and on assessing the value of our investments and their impact on the economy of this country. It would also require fiscal responsibility, I believe, and discipline in setting our own operating budget.

Simply, Mr. Chairman, as you know, a family may sit down and decide that they want to purchase a car, so that the breadwinner can go to and from work. It may take some debt to do that, but it is a solid investment that is going to generate a return for that

family. That is a very different type of investment than borrowing money to go on a vacation to Florida.

What I am saying is that this institution should make a similar distinction between those two types of spending, and have a different type of analysis for each. You have at least one such detailed proposal before you, Mr. Chairman. I have spoken with Bob Wise, and I have discussed this fully. I believe he has a detailed recommendation that is worthy of this committee's consideration.

Again, Mr. Chairman, my time apparently is over, but I want to thank you once again for your attention to this subject. If there is interest in this basic proposal, I would be more than happy to sit down and work with any Member of the committee in developing the details.

Thank you.

[The prepared statement of Mr. Andrews is printed in the Appendix.]

Mr. WALKER. Thank you very much for your testimony. Your ideas are useful and are interesting. They are something that we ought to discuss along the way.

What I am going to do is I am going to break it off now for those who are in the room. We have a vote occurring in the House right now on a rule on Part II of the Foreign Aid Bill. So, I am going to break for five minutes here. Go get the vote, then come right back.

For those of you who are due to testify, Mr. Greenwood would be next. We will come back and proceed immediately after the vote.

[Recess.]

Mr. WALKER. The committee will come to order. We will resume testimony with Mr. Greenwood of Pennsylvania. We will be happy to hear your testimony.

STATEMENT OF HON. JAMES C. GREENWOOD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. GREENWOOD. Thank you, Mr. Chairman. I appreciate the opportunity to be here and present testimony.

As you know, Mr. Chairman, I am a freshmen. I am a new Member of the House. When I announced my campaign for Congress in late 1991, the first thing I said is that I am running for Congress to change Congress. The work of this committee is very important to me.

As I try to make my decisions about how I feel about Congressional reform, I try to remind myself that my responsibility is not to make Congress a nice place for me to serve in. My responsibility is not to try to design or redesign a Congress that is comfortable for incumbents, but rather to design or ask the question, and answer the question, what kind of a Congress do I want to leave for my children to govern their future, and what kind of a country do I want to leave?

I think we should err on the side of making ourselves, as incumbents, as insecure as possible, so that we have to do the best job that we can in order to earn reelection, if that is what we seek. To those ends, I think that the two unfair advantages that incumbents have are obviously the access to campaign contributions. For that

reason, I advocate the elimination of the PAC system entirely. I have voluntarily decided I won't accept PAC money. There are now about 5 percent of, I think, in the Congress that don't accept PAC money, voluntarily. I hope that we can eliminate PAC contributions entirely.

But what I am here to testify about is the other unfair advantage that incumbents hold. That is their ability to use the franked mail in a way that is purposely designed to influence the outcome of an election. To that end, I have introduced H.R. 1349, the Franking Reform Act of 1993. I know that you share my belief that the electorate want real Congressional reform. I hope I can count your view to support H.R. 1349, the Franking Reform Act of 1993.

The franking privilege was created to allow Members of Congress to communicate with their constituents, and to keep them abreast of action on issues of importance in Washington. Unfortunately, too many Members skirt the law and use it to pay for self-promoting public relations mailing during the election cycle.

I was the victim of this practice in my campaign against an incumbent Member of Congress last year. I was approached by more than a dozen individuals, constituents, voters in the district, complaining that they had received unsolicited franked correspondence from my predecessor just days prior to the general election.

The Franking Commission and the laws clearly state that a Member may not send unsolicited mass mailings within 60 days of an election. The Commission defines a mass mailing as 500 pieces of mail or more. Unfortunately, many Members violate the law undetected by the Franking Commission by mailing bundles of 499 letters at a time.

My constituents experienced firsthand the ability of their representative to blatantly circumvent the mass mailing restriction. The incumbent denied abusing the system, but only after the election were we able to demonstrate that, in fact, he had been telling the truth. The facts finally emerged in a March 1993, report released by the National Taxpayers' Union Foundation.

MTUF reported that as many as 24 Members of the United States House of Representatives skirted franking laws by sending out thousands of pieces of unsolicited mail in the days leading up to the November 3, 1993, election. The study found that while the overwhelming majority of House Members apparently sent few, if any, unsolicited mailings during the 60 day ban, 24 Members had mailing patterns that suggests they took advantage of a loophole in the law that bans unsolicited mass mailings of over 500 pieces.

During the 60 day ban, 24 House Members sent approximately 300 unsolicited mass mailings of between 400 and 500 pieces, at a total cost to the taxpayer of \$109,314. This taxpayer-financed propaganda mall must be stopped. We have a responsibility to close the loophole which allows incumbent candidates to bypass franking regulations, and to send large numbers of unsolicited mailings to groups in excess of 500 individuals, right up until election day.

The Franking Commission has had complaints that individual Members have used the loophole to circumvent the law. The current regulations make enforcement all but impossible. My legislation, H.R. 1349, has been endorsed by the National Taxpayers' Union. It would prohibit an individual Member, who has his or her

name appearing on a ballot, from sending out unsolicited mailings during the 60 days prior to an election.

Three exceptions would be allowed: Letters in direct response to incoming mail and telephone inquiries, as long as those inquiries had been received within the previous 60 days—you can answer your mail; you can answer your telephone messages; communication from one Member of Congress to other Members of Congress, or to Federal, State, or local government officials—a Dear Colleague letter; and news releases to the communications media.

Compliance with a rule banning any unsolicited mailings during the 60-day period would be easily monitored by the public and enforced by the House. I encourage the Joint Committee to incorporate this legislation into its recommendations.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Greenwood is printed in the Appendix.]

Mr. WALKER. Thank you very much.

That is a reform that certainly should be looked at. I wasn't quite able to understand the threshold for communications back to constituents. You said it had to be mail received in the previous 60 days. What about mail coming in during the period of time of the 60 days before the election?

Mr. GREENWOOD. That would be alright. I think a Member of Congress should be able to answer a letter, a phone call, at any time that it comes in. If a letter or phone call comes a day before the election, a response should be promptly given.

Mr. WALKER. So the limitation is on how far back they can go to determine who has written them. You can't go back four and five years to pick up a name that happens on your mailing list and send them a letter in the last 60 days of the campaign. Is that right?

Mr. GREENWOOD. That is exactly right. That is what happened in our case. The incumbent that I defeated denied sending unsolicited mail prior to the election. The fact of the matter is that people would come into my office and say, "I got this letter from your opponent. I don't know what prompted it. I haven't written him in years. In fact, I think I wrote maybe seven or eight years ago. I wrote him about a question having to do with social security."

What the incumbent said was, "I didn't send any unsolicited letter. I only mailed to people who have contacted my office." Well, they search their computer files and go back to the beginning of time, and then call that a response to an inquiry from a constituent. It is a blatant abuse of the system.

Mr. WALKER. That clarifies it. In other words, you would have 120 day period that you could use as the basis for deciding whether or not somebody has written you that should be responded to.

Mr. GREENWOOD. That is right.

Mr. WALKER. I thank you very much. Your testimony is very useful, and certainly will be made a part of the record here, and hopefully will be discussed as a part of our deliberations on what we want to include in the final package.

Mr. GREENWOOD. I hope so. I think most Members would feel very comfortable living with this. Most of them already do. It weeds out the abusers.

Thank you, Mr. Chairman.

Mr. WALKER. Thank you.

Next on this list to testify is Mr. Smith of Michigan. We thank you for coming, and we look forward to your testimony, once again reminding all Members that we are attempting to keep within a time limit of 10 minutes, so that we can stay on schedule.

Mr. Smith, we welcome your testimony.

STATEMENT OF HON. NICK SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. SMITH. Mr. Chairman, thank you.

Even when the preacher goes to church, and just the choir is there, he stills gives a sermon, even though it is a little short.

I want to talk about the budget, and certainly you, more than most Members, have been vigorous in trying to reduce spending. Right now, just to establish the parameters of the dangerous situation we are facing: We are paying out about \$280 billion this year on interest on the debt. A lot of people say it is only \$200 billion, but if you include the money we are borrowing from the Social Security Trust Fund, etc., it is \$280 billion. We are increasing that interest payment by \$20 billion a year.

This proposal, a bill that I hope to introduce, helps guide Congress by changing the Budget Act of 1974. It helps guide Congress to live at least within the parameters of the Budget Resolution.

Right now, as you are aware, if the Budget Resolution deals with entitlement spending, then it goes to the appropriating committees. Then it is reconciled through our reconciliation bill.

If the Budget Resolution deals with discretionary spending, often the function areas have individual caps. This proposal suggests that we subdivide the function limits within the Budget Resolution on the basis of how many different committees deal with a particular function spending. Our bill was at \$820 million in our Science and Space; and your Science and Space Committee brought this pretty vigorously to my attention that individual authorizing committees can overspend because there are no parameters when several authorizing committees deal with the same function spending. It is only the appropriating committee that has more latitude and more discretion to mixup and match in whatever way they deem is appropriate for that committee.

I am suggesting that we change our budget act to allow subdividing of function areas as it deals with discretionary spending. I think I am particularly concerned that we twice send out a misconception that we are going to live within the parameters of the Budget Resolution. Again we send out a misconception when authorizing committees may authorize more than the eventual appropriating committee decides to spend on that particular part of a function that comes under the jurisdiction of several committees.

This bill simply says, let's change the Budget Resolution to subdivide those function areas when several authorizing committees are going to make a decision dealing with authorizing parts of that function.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Smith is printed in the Appendix.]

Mr. WALKER. Your concept here is to have the authorizing committees, then, live within the constraints of the Budget Act as well.

Mr. SMITH. Yes, then the authorizing committees would have to live in the constraints of that subdivided cap. Their parameters are totally open to that authorizing committee—what they spend the money for—as long as they live within their share of that particular function.

Mr. WALKER. As the gentleman knows—he has had enough experience now in the authorizing process—that is a frustration, because what we so often find is that the large numbers in the authorization aren't real, and that the appropriators will take care of it, complying with the Budget Act later on. What that assures is that the appropriators then have total discretion for the spending, rather than limited discretion, which means that the policy options chosen by the appropriators are not always the same as what the authorizers intended.

Mr. SMITH. I think it shortchanges the authorizing committees, who are the expertise in some of these areas. Second, in the history I read of what happens to the appropriating bills, often points of order are dismissed, and those appropriators can spend beyond the parameters of the Budget Resolution itself.

Mr. WALKER. I thank you for your testimony. It is certainly an idea that is worth our pursuing as we begin our deliberations. We thank you for testifying.

We now arrive at an historic moment where one Chairman, Republican, turns over the gavel to another Republican Chairman. I am very pleased to have Mr. Emerson here, and will hand over the gavel to him as our next witness comes to the table.

Mr. EMERSON (assuming Chair). Mr. Chairman, thank you.

Our next witness will be Mr. Minge from Minnesota. Welcome, Mr. Minge. We are glad to have you with us, and delighted to hear what you have to say.

STATEMENT OF HON. DAVID MINGE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. MINGE. Thank you. It is an honor and opportunity to address this committee this afternoon.

What I'd like is to summarize my remarks, which are contained in a prepared written statement, which I have provided to the Chair previously, and ask that this prepared statement be a part of the record. My remarks will be a summary of it.

Mr. EMERSON. Without objection, your prepared statement will appear in the record.

Mr. MINGE. What I'd like to address is what I will call process reform in Congress. These are matters which can be handled either through the Rules of the House, or even caucus rules. I do feel that they could certainly be taken care of in the Rules of the House. We ought to address these process matters for a more effective Congress.

My recommendations come in four different areas. The first is the selection and tenure of chairs of committees and subcommit-

tees. What I urge is that this committee recommend to Congress that the leadership of committees and subcommittees be chosen on a basis other than strict seniority. Second, I recommend that the terms of Chairs be limited so that leaderships of committees and subcommittees rotate.

I feel that this would be in the best interest of the American experiment. We certainly need new ideas, fresh leadership on a regular basis in committees and in subcommittees. We need to provide the opportunity to more Members to play a leadership in the various areas in which they have a deep interest.

I feel that the longevity of Chairs develops abuses and also distortions in the decision making process. One very negative impact of this is that many people become chairs of committees that are closely identified with the districts from which they come. As a consequence, the policies that these committees end up promoting in terms of legislation and appropriations favor certain regions or districts in the Country. I think that if we had the rotating leadership requirement in the House Rules that we would be able to minimize that type of distortion in our lawmaking process.

Another reason for this is that with the tendency of Members of Congress to be reelected once they become incumbents at a rate that exceeds the reelection to the former Soviet politburo, we do not have the turnover in the electoral process that ought to occur, so that we cannot rely upon the voter, so to speak, to continually change the leadership of committee and subcommittees. Similarly, we cannot rely, or expect the use of the secret ballot to do it either.

My experience is that unless there is opposition, most Members will simply vote for the incumbent. Secondly, very few people are willing to oppose the Chair of a standing committee or subcommittee because of the old axiom, if you are going to shoot the king, shoot to kill. It is very difficult to be successful in those endeavors.

The second topic I'd like to address is committee jurisdiction. I feel that it is obvious to all of us in Congress that there is a handful of committees that have disproportionate share of the legislative responsibility. It would be a healthy reform if the scope of responsibility of the various committees was equalized. This is something that has been a popular subject of comment, and I will not belabor it.

The third area is committee assignments. My brief experience here as a new Member of Congress is that we have too many things going on at the same time. This committee meeting is just one more example of that.

My recommendation is that Members be allowed to serve on a maximum of two subcommittees, and that with such a limit we can expect that the size of the subcommittees would be smaller; the attendance at proceedings would be better; the quality of the legislative work that is done in committee and subcommittee meetings would improve. I really feel that this would go a long way toward making the committee process a responsible, participatory process, as opposed to a process which is largely conducted outside the committee rooms.

Along those lines, although I know that proxies are in some cases necessary in order to represent one's vote at a meeting that you cannot attend, still the proxy process encourages people to be

more lax in their attendance, and results in decisions being made without the benefit of those that are voting to hear the arguments and the discussions that have occurred during the meeting.

The committee assignment question comes up in another context that I'd also like to address, that of Members changing committees. Right now, there is really an incentive to stay on a committee that one is first appointed to. This tendency to stay on a committee, even a committee that is not working in an area that may be of interest to a Member, is not an effective use of many Members' talents.

I think that what we should move toward is a system where there is not the same strong incentive to stay on a committee for an entire career, but instead people who, after a few years of experience, are deciding that they do not have a substantial interest in a committee's jurisdiction should be able to move to other committees and feel that their opportunity to become a leader of that committee, or other subcommittees, is not affectively lost because they have not built the requisite seniority.

If we have rotating committee Chairs, and if we select Chairs on a basis other than seniority, I think that this change in committee assignments would be encouraged.

In conclusion, I would summarize that the six areas of change that I recommend are first, limiting the tenure of Chairs; second, selecting Chairs on a basis other than seniority; third, limiting Members to one Chair position at a time, so that we do not have committee Chairs that have multiple responsibilities in that capacity; fourth, limiting the number of subcommittee assignments; fifth, prohibiting the proxy voting; and sixth, equalizing the jurisdiction of committees.

I have come out to Congress with the expectation that reform and changes will be quickly embraced, if the strength of the argument is recognized. Having served in Congress for approximately five and a half months, I have become somewhat more cynical of the process, and I know that these changes come slowly and they are hardfought.

But I think that it is critical that if our committee system is going to function effectively and if we are going to have decisions made on the basis where the distortions of one Member's loyalty to his own district is not paramount, but instead we avoid that type of distortion, we have to change the manner in which we select committee leaders. We have to be prepared to make some tough decisions and cast some hard votes.

I would like to see this committee start that process by making some very, very strong recommendations to the U.S. House of Representatives, and to the Senate.

Thank you.

[The prepared statement of Mr. Minge is printed in the Appendix.]

Mr. EMERSON. Thank you, Mr. Minge, for your very constructive contribution here.

You raise some very, very interesting issues about this institution. I think I can guarantee you that they will be fully considered. All that this committee has done so far has been to hear witnesses. We have not deliberated or debated any of the things that we have

heard, but we are about to move into that phase of the life of this committee. The points that you raise are things that we will and should consider.

I can't promise the outcome. There are views that have been submitted that would differ with yours, but your recommendations are certainly reasonable. They are on target as to the type of things that we are going to be looking at.

Thank you very much.

Mr. MINGE. Thank you.

Mr. EMERSON. Our next witness is the Honorable George Gekas of Pennsylvania.

George, please proceed as you wish.

STATEMENT OF HON. GEORGE GEKAS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. GEKAS. Thank you very much, Mr. Chairman.

First, I have a written statement which I have submitted along with some exhibits, which back my proposals.

I have two propositions, one of which I will dwell on very little, because it has been brought before the committee before. That is the proposition that the select committees on intelligence ought to be combined, the Senate and House.

This has been considered several times before, and it has the obvious rationale and benefits attached to it. Namely, it is less costly. Two, and more importantly, it brings to the witness table the round of intelligence committee witnesses only once for a given issue. Whereas, now they have to troop back and forth, which in itself is timeconsuming, costly, not to mention the draw away from their functions.

Most importantly, it does drastically reduce the possibilities of leaks, and of breaking of confidentiality. I have been dismayed as you have over the last few years when we have learned of breaks in classified information. The combination of the two committees would greatly diminish that.

Congressman Hyde, our colleague has, for several terms now, attempted to do this. When he left the intelligence committee and I took his place, I have taken up his cudgel as well on this particular issue. For that reason I am reendorsing what Henry Hyde has proposed.

Proposition two: This is solely mine, and I am very attached to this one, and hopefully, your approval of it.

Every year of the ten years that I have previously served, before beginning my 11th year, except one, the Congress of the United States, contrary to its own laws, has failed to meet the budget deadline of September 30. This has had various kinds of results, none of them good.

It brings into play the continuing resolution, which itself becomes an instrument of mischief for Christmas Eve packaging of special interests and unknown items which plague us, not only as Members of Congress, but as the American public, for years thereafter.

More stridently I must point as part of my presentation that during Desert Shield, Columbus Day area of Desert Shield, our

young men and women were poised over there in the desert ready to launch Desert Storm. In the middle of that, the Congress failed to meet its obligation. The contemporary continuing resolution that had been put into effect expired. For three days—I repeat, for three days—our youngsters over in Desert Shield were operating without a Government to back them up. We had no Government except a shell of an executive office with which the Desert Shield apparatus could be operated. That was shameful.

But, even if we erase that, you and I know of all the other mischief that can be wrought at the hands of the structure if we do not have my solution. What is my solution?

My solution is an instant replay solution. That is when September 30 comes around, and no budget or any one of the 13 appropriations has not been fulfilled and a gap remains, the next day there is an instant replay of last year's appropriation for that appropriation sector. It could be 13 of them, 12, or one, but we would have any CR necessary, or temporary CR, with which then games could be played.

Ours would be, in effect, a continuing resolution, but it is an adoption of the last year's budget, which allows the Congress in its own good time to plan and execute a new budget, if it should so will. In the meantime, we don't have the worries about shutdowns, and Federal employees being laid off, and the Smithsonian Institution being shut down, and all of that.

This is an important feature of this, Mr. Emerson, which I commend to your attention. While I was introducing this legislation in successive terms, because I have been bothered by it since I have been here, the GAO did a study—Government shutdown, permanent funding, lapsed legislation needed. In that study, one of its conclusions, on page nine, was that something like what we have proposed be adopted, so there would be no Federal shutdown. They go into all kinds of horror stories as to what happens when this lapses.

Then, as a matter of fact, which bubbled my ego, in a footnote that says this, "As we were preparing this report, a bill was introduced in the House, H.R. 804, in the 102d Congress, to provide new authority for an automatic continuing resolution." My bill. I wish they had mentioned my name, but I represent to you that it was my bill.

They liked the concept, or at least they recommend the concept of the instant replay, which we propose. That can take on different colorations. You will recall that we, in the Republican Conference, insisted, and our leaders executed, an arrangement where, with the Democratic leadership we decided for some CRs be put in place 15 days, or 30 days, on condition—and we insisted on the condition—that last year's levels be adopted, or lower levels if the CR would contain lower levels.

That in essence is what we would like to see. Never again should we have our Federal employees, and most importantly, our armed forces' Federal employees, out there hanging someplace with no Government to back them up. That is exactly what the case holds for them if a CR disappears from the face the earth and no new CR has been adopted.

With that, I open it to questions, and your overwhelming endorsement of my proposition.

[The prepared statement of Mr. Gekas is printed in the Appendix.]

Mr. EMERSON. I like both of your suggestions. I endorse them both.

Mr. GEKAS. I thank you. I'll talk to you later about them.

Mr. EMERSON. Seriously, you know where we are. We are wrapping up the hearing process of this committee. We haven't had any debates, or discussions, or deliberations yet. It is appropriate that you come put into the pot what you have here today. It will be considered. I think they are very worthy suggestions.

Mr. GEKAS. I thank you very much.

Mr. EMERSON. Thank you, George.

Our next two witnesses are on their way. So, we will be in a brief recess until they arrive.

[Recess.]

Mr. EMERSON. The committee will resume its deliberations. We will hear from our distinguished friend and colleague, the gentleman from Pennsylvania, Mr. Kanjorski.

Paul, you may proceed as you wish. Submit your statement for the record, and summarize, or give us the whole nine yards.

STATEMENT OF HON. PAUL E. KANJORSKI, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. KANJORSKI. I have a 432 page statement, Mr. Chairman.

Mr. EMERSON. I'd appreciate it if you would submit it for the record.

[Laughter.]

Mr. KANJORSKI. If the Chairman pleases, I would ask that the testimony in its entirety be put in the record. I'll try to summarize it, if I can.

Mr. Chairman, you and I know that back on a cold day in January in 1953, we came to Washington, as young men with stars in our eyes and a desire to serve this Government. Of course, we became pages in the House of Representatives. Over the 40 years since that we have had, over our lifetimes, the occasion to watch the evolution of the House and the Senate, and the Legislative Branch of the United States Government, and the Government as a whole.

I happen to think that the theme of the 1992 election was a non-partisan theme insofar as at least what the elected President was talking about was reinventing Government. I can't think of a branch in greater need of reinvention than the Legislative Branch of the Federal Government of the United States.

It lacks all the advantages that were in existence in 1953 when we first came as pages. It has kept all the difficulties and the inabilities to obtain even any semblance of creative functioning as a legislative unit at this time. Some people call it gridlock; some people call it inactivity. It basically is an entity in political science that has failed to grow and evolve as our Country has evolved, and our economy and our society and the needs of the world and the position of the United States relative to the world has changed.

I would ask this committee to be bold. Please don't work around the edges. We don't get this opportunity very often. The last time in my recollection was the Commission in 1946, and the reorganization of Government, where former-President Hoover had a major contribution. To the best of my recollection, that is the last time this Congress really had any reformation, or for that matter, even the Executive Branch.

I think that we have to work to even out the workload and the jurisdiction of the committee system. The committee system is overly cumbersome. It lends itself to egos, and jurisdictions, and one-man control of legislation, in many instances. Not to get too partisan, but the very problem that we see in the United States Senate today is that there is a need to satisfy many individuals with their preferences, or with their parochial attitudes that affect their constituencies, that there is a tendency to miss the point of what serves the Nation well.

I would ask that the House and Senate committees work out new systems so that we can have less committees, less cumbersome committees, broader jurisdiction, and certainly less joint referrals, where good pieces of legislation tend to get lost because of the inability of any single committee to control their final course through the legislative process.

I think that a good part of this is the waste of time that we undergo. I would ask the committee certainly to address the budget reform question. I clearly think that in 1993 a two-year budgeting cycle would be far more efficient, and far more effective for the United States Government.

The idea that we no sooner end the budget cycle, and begin the appropriations cycle the next year without little time for reflection or study is really almost an embarrassment to a Member of Congress today. I think taking a two-year cycle and merging the appropriations and the authorization process would be extremely helpful for this.

I think we are all old enough and big enough to handle these changed conditions. I know why appropriations were separated in the past. They worked for that time. Today the correction probably has become excessive, and now the authorization and appropriation process should be put back together.

Then, when we look at the schedule of priorities in the House and the Senate and the Administration as a whole, sometimes we spend inordinate time wasting time because there is no chance for a certain piece of legislation to ever get through. We interminably have hearings. We pass them, and they die a death of unfulfillment. I think the leadership on both sides of the aisle and in both branches, the Legislative Branch and the Administration, has to work more closely together to be more realistic as to what are the likely chances of legislation passing. That is where the emphasis should be placed. The other matters that are done for publicity, for exposure, for satisfaction of individual constituencies should be put aside.

I have to say the one major weakness that exists in the Congress of the United States today, although we don't legislate as properly or as well as we should, it isn't really the legislation, it's the failure to oversee the legislation we do have. I think it is an abomina-

tion that once we pass bills, we pay little or no attention to whether or not they, in fact, are put into execution, and how and with what efficiency that execution has had in the Executive Branch of Government.

I think the frustration of most American people today has little to do with the laws we pass, and much to do with the way the laws are executed. This doesn't matter what party is in control of the Executive Branch of Government, because as you and I know, sometimes we conclude that a single party is not in control of the Executive Branch of Government, but the Government itself is controlled by the bureaucracy, and the employees of the Executive Branch.

If we could have a stronger degree of House and Senate oversight to see what happens and how efficiently and effectively legislation is executed, I think we would go a long distance to correcting this problem.

Also, we waste an awful lot of time. All of us know that when we took this job, it was 12 hours a day, seven days a week. None of us really are annoyed with that, because we rather enjoyed it. Someone said to me just recently, our work is really our pleasure. That is a true statement for most of the Members of Congress that I know.

But I think all of us, because we feel overburdened and have a great deal of work to do, do get greatly frustrated with the waste of time. This includes an interminable number of procedural votes called in the middle of important hearings, the failure to know when to set hearings because of when the House schedule will be held, the inability to have organized contact with our constituency on a regular order.

I think this committee could do a great deal to attend to just those housekeeping functions.

We have had some change in the paperwork in the House. We have had an Administrator for Non-Legislative matters, although I have not met with him. I am surprised at that. There are other things that don't surprise in this House.

I understand that in 1952, they built a bunker for us so we could all exist in a nuclear war. I have been here eight years, and nobody has indicated how I get there, where it is, or why we are keeping it. If I don't know whether I can last through the perils of a nuclear blast, I don't know why I should expect to be able to buy efficiently the equipment for my office, or make trips out of my district without satisfying more naysayers than I wish to think.

As a matter of fact, most recently, and my testimony will reflect it, on my committee in order to purchase paper clips, it required the approval of four different agencies within the House of Representatives' framework. In order to purchase some electric equipment that we could have bought for \$80 in Radio Shack store downtown, we had to use the preferential list of purchasers at the House at over \$500.

People don't understand this waste of Government money and they certainly don't understand that individuals paid as well as we are—and we are paid well now—who have staffs who are paid fairly well—in most instances, not well enough, but certainly the top staff well enough—should be called upon by the cumbersome-

ness of House administration to expend the money and take the time to do the stupid things we have to do here in a child-like fashion. It does not offer a good representation for the membership of the House and the Senate, or for the branch of Government itself.

I would urge that we pay close attention to cleaning up the non-legislative, administrative aspects of the House so that we are all well protected, not embarrassed as we were in the bank and Post Office problems, most recently. We should be able to perform our functions a major part of the time, rather than wasting time in administrative functions that are really only pushing paper.

There are two points that I would make at the end. In the modern day of technology today, the lack of information resources that are available to the House through the computer systems is really abominable. Any major corporation in American can call up material, have cross reading, have cross index on computers. In calling up bills and reports in the House, if you use our computer system sometimes you literally have to print out page one through the entire system of 200, 300, 400 pages, if you want to get just an excerpt of some material in the interim of the of these documents.

Certainly to spend a little money to put our computer system together so we could have electronic transfer of information and research facts readily available to Members, it would be very helpful. I think in the long run it would be a great savings to the Country as a whole, and certainly in time, to the Members of the House and Senate.

Finally, when we came to Congress as pages in 1953, we were as proud as punch to say we even worked for this outfit. There wasn't a Member who walked that floor, regardless of how intellectually involved he was or how wealthy he may have been, or how successful, or how humble and unprepared for service he was, who didn't receive the highest honors from the people who worked around the House, the pages and the staff, and the general public.

To say at that time that you were a congressman was something to be proud of. I have to say that when I was first elected to this body as a Member of Congress in 1984, I remember I couldn't wait for someone to ask me at a cocktail party, on an airplane, or anywhere I was, what I did for a living. I would perk up, and very proudly say I was a Member of the United States Congress.

About four years later, I recall saying that I would just mumble that I work for the Government. Now, Mr. Chairman, I have to really admit that when I am asked that question I really say, I am a lawyer. Eight years ago I was embarrassed to say I was a lawyer. Now I find claiming that certainly surpasses the esteem with which the American people hold this body.

It is our fault. So many of us have used the denigration of this institution as a political process that we are all responsible. Going beyond that, institutions in authority throughout our system are under siege. As we witnessed today, it is not only our institution, but indeed the presidency which is being attempted to be brought down by those people who gain wealth or prestige or influence by attacking organized authority.

Those of us who have to exercise that authority and participate in this institution should know better than anyone else that we are what we think of ourselves, and what we appear to be in image.

There is a lot we could do to improve the image of the Congress of the United States of the American people.

We certainly could start by using C-SPAN as a educational process of people of the American Government and what it is about. We certainly could end the showing of empty chambers, where people think people talk interminably, and that nobody is listening. We could do a lot of simple things, and we could also do a lot of instructive and educational things that would raise the level of respect that the American people, and indeed the world have for the institution of the United States Congress.

I think that is the major job that this commission can perform. I urge you to do so. Thank you.

[The prepared statement of Mr. Kanjorski is printed in the Appendix.]

Mr. EMERSON. Thank you, Paul.

Your statement was very comprehensive, and as you talked and made your recommendations, it occurred to me that you haven't said anything that is outside the bounds of what this committee is going to be considering. We are looking at eight major subject areas that we are going to be focusing on. That is what we have been hearing testimony about. We have done no deliberations, and no debate, no argument. We are a long way from having whatever we will produce be ready to recommend to the House and to the Senate.

All of your recommendations certainly do fall within the purview of this committee and I thank you for your statement. There were two things that you said that I feel very strongly about in concurrence with you. That is the need for Congress to improve in a very serious manner its oversight function. Virtually no really serious oversight goes on. I think that should come in conjunction with your suggestion about a two- year budget cycle. We would spend one year doing oversight and authorizing, and the next year appropriating. I think that makes very good sense.

Also, we are very, very sadly lacking in the full utilization of technology, technology that is available today. We ought to making a higher use of it than we do. I think you would agree with me that we make a lot better use of it than we used to, but not nearly as good as we should.

I would like to ask you one particular question. You have spoken in a very impassioned way here about the need for reform. I don't really disagree with any of your suggestions in their broad parameters. We would need to get into some details in implementing some of them.

Do you think that the House as a whole is really ready for the kind of reform that even you have suggested here? This is emerging as a debate. You asked this committee to be bold in its recommendations. We have had Members sitting where you are sitting, and more in the chamber as we visit around, saying, "Tinker around a little bit. Don't do very much."

I am wondering. I haven't yet developed the feel for whether Members are really serious about significant reform, or whether this will all come to naught. What do you think? Are they chomping at the bit for us to make recommendations for their debate and votes?

Mr. KANJORSKI. I think, as the American people on November of last year voted for change, but my good friend the President would not be perhaps convinced that they are going to accept it very easily. I think the Members of the House will talk in general terms of wanting change, but that means change the other guy's responsibility and jurisdiction.

Ultimately, I think that the House is now made up, uniquely, of 110 new Members, and certain caucuses that feel disenfranchised sufficiently to test the powerful force of the House. It will be a great test as to whether representative democracy can exist in 1993, if we can internally and substantially change this institution.

I think it will be tough, and undoubtedly whatever changes are recommended will have to be modified and worked through as they work their process. I think that to start with large change you may be surprised, particularly if they have the recommendations put to the House with a closed ballot. I am not sure that we shouldn't be able to do that. With a secret ballot I think you will find that there is a ground swell out there, particularly among the less-senior Members of the House to see something significantly changed in the House. You will have support.

As I said of the presidency, it is easy to say change, and ultimately everything you change you create an enemy as opposed to a friend, because you lessen their power, you lessen their influence, or you walk on their dangerous territory. I think the speed with which this committee responds is important. You can't have it lay around. It shouldn't go over to the election year.

Mr. EMERSON. It won't. It will not. Our authorization is only for this year. We are charged with making a final report, I think, by the end of the year. I know that the intentions of the committee are better than that.

We are about finished with the hearing process. Then we will move into the deliberative stages. Schedules do always slip, but I think the object is that we will be ready to move in September with recommendations. I think July is going to be a very deliberative month. We will be out in August. I think maybe when we come back in September we will be moving actually into the stage where we are formulating and making recommendations, and maybe moving to the floor of the respective chambers with those recommendations.

I don't think there will be great dalliance. I don't think we will go over until next year. I think it happens this year.

Mr. KANJORSKI. The reason I am trying this last effort and I think this committee should make a large effort at boldness is that I think we are testing the outer limits of the separate branches of Government. I think I am hearing in a political sense that we have gridlock, if we can't perform in our three-separate-branch system that people expect us to move on to the parliamentary system.

I start seeing that with the delegating of authority from the Legislative Branch to making a strong executive. There is a tremendous feeling in the Land that something has gone astray, because most people don't understand the miraculous nature of our Constitution. This is our last chance to preserve it, I think. If we don't do it, and do it boldly, I think what we are going to see is a movement toward a parliamentary form of government.

I think the gridlock that has been indicated in the last several years in the Congress and with the presidency now regardless of what party is in control of the presidency is indicative of the fact that we will frustrate the American people.

One thing I wanted to say, going to your point on oversight, is that we have a high frustration level, particularly in the House. You know that we have never seen an atmosphere that exists as it does today. Part of it is the frustration of trying hard, whether you are Republican or Democrat, and not being able to get to get something done, even after you get something done.

Let me give one little story. For a year and a half to two years I labored in the vineyards to create a new type of institution that we fashioned into law through both the Armed Services Committee and the Appropriations Committee. Finally it moved through the conference, and finally we had it adopted into law. Off it went to the bureaucracy for setting up the institution. We allocated \$20 million to do it.

Once it got to the Administration, because oversight was lost, it was finally shipped off to an agency that is just deathful in its bureaucracy. The bureaucrats wrote something that never reflected anything that any of the legislators had imagined. As a matter of fact, you participated in the program, if you know what I am talking about.

Mr. EMERSON. I know what you are talking about.

Mr. KANJORSKI. Finally, what happened is that \$20 million went out on the street to perform something that nobody had ever asked for, and nobody wanted, and nobody knew that there was a need for it.

If we had the capacity to follow that, some way as oversight, we would have accomplished something much sooner. We would have accomplished what was the real legislative intent behind the process, and we would have saved, if nothing else, \$20 million of expenditure. We did none of those things.

I think that by going to this oversight idea, and making the Members of Congress a little more parliamentarian in their participation in the Executive Branch with oversight, you are going to reduce the frustration level, particularly of the minority party. You may actually find that we have a centrist coming together of the two parties to govern again, and to govern efficiently and effectively.

If we do nothing else through this committee, that would be a major accomplishment for the American people, seeing this branch of Government operate and function.

Mr. EMERSON. I certainly think enhanced oversight is imperative.

In his initial statement to this committee, Speaker Foley made a statement that has come back to me time and time again as I have listened to many witnesses and thought about what they were saying. He said he felt that in order for us to do our job well that the majority should think as though it were the minority, and the minority should think as though it were the majority. I said I have contemplated that, and I like that idea as a member of the minority, of being a member of the majority.

Kidding aside, I think what the Speaker was really saying is that maybe what we need around here is a better application of the

Golden Rule. That may be too idealistic and difficult to implement in a practical sense, but I think that is what he is talking about. I see a lot of the impediments to things moving as they should, or to conclusions being reached that would be more logical perhaps than some that we do reach, as being personal gridlock.

It is not so much procedural as it is the attitudes of the people who are involved in the process. There is a lot of that that goes on around here, so I am not sure we can reform. I guess the point I am trying to come to is that I am not sure we can reform the human element.

Mr. KANJORSKI. It is our last chance.

Mr. EMERSON. Oh, I don't know that it is our last chance. After I am in my seventh term in Congress, and despite daily frustrations, I somehow remain an optimist.

You mentioned earlier here gridlock. I was talking about that along about the same lines you were to another of our colleagues as we were driving into work one morning. This was maybe about a month ago. I guess it was at the time of the stimulus package experience. He said, "The Constitution is working the way it is supposed to. Congress is a deliberative body. It is not supposed to be efficient." That was an interesting point of view, when you think about it.

Mr. KANJORSKI. It is, but also pose the question; I am not asking for efficiency; I am asking for deliberation. Think of the last time you had two or three or four hours to really put into a brainstorming session to come up with some use of original thought in approaching some problems. We tend to be running around and think a half hour of uninterrupted time is a lifetime.

My own judgement is there is far less interplay and deliberation that is occurring today, in 1993, than there was in 1953, when we were here as pages. At that time, Members had a lot of opportunity among themselves, and around the floor operation, in their offices, to really spend hours upon hours of deliberation on policy and long-term considerations of governing.

Here, we like instant mix, if you will.

Mr. EMERSON. I think you have touched upon a lot of those points that could correct this. You did talk about fewer committees, fewer referrals, how we do waste time here.

Frankly, one thing I hope is that we can better utilize technology, which is a point that you made, to devise a master schedule for this institution, so that the people who make the schedule can be aware of all the conflicts that exist.

Mr. KANJORSKI. I think that by streamlining our priorities and our use of time in legislating it will give us that excess time for real deliberation.

Bill, we are in different parties at this time in our lives, but we don't have a lack of capacity around here in either party. We certainly have a lack of good ideas of how to solve a lot of perplexing problems to the American scene. Our problem is we frustrate the membership from really getting to any major and substantive accomplishment.

Mr. EMERSON. That is very true.

Mr. KANJORSKI. Thank you very much, Mr. Chairman. I can't think of a more important Member to be a part of this committee than yourself, my roommate.

Mr. EMERSON. It is an honor to be able to serve on this committee.

Thank you, Paul. Thank you very much.

Our next witness is the gentleman from Virginia, Mr. Goodlatte. Welcome and proceed as you wish, Mr. Goodlatte. You may either submit your statement or deliver it, and summarize, or however you wish to proceed.

**STATEMENT OF HON. ROBERT GOODLATTE, A REPRESENTATIVE
IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA**

Mr. GOODLATTE. Thank you, Mr. Chairman.

I appreciate the opportunity to testify before this committee as one of the 114 new Members of Congress. I'd like to share with you some of my concerns regarding the way this institution exempts itself from the laws.

I frequently hear from constituents back home in my Sixth District of Virginia, who are outraged that Congress regularly places itself above the law. I tell them I agree, and that if Congress were subject to the same laws they pass for everybody else then maybe they would appreciate the burdensome nature of Federal regulations and start writing laws with a sharper pencil.

I believe we would also exercise greater oversight of the promulgation of regulations by Federal agencies because we would better understand their application and impact. It is a double standard that Congress can ask a small business to comply with safety and labor laws and not have to comply itself.

I am sure you have all heard from constituents who are frustrated with the myriad of Federal regulations and mandates on business. Many of these regulations are onerous and unnecessary.

For example, one small business owner in Allegheny County, Virginia, who had just undergone a surprise inspection by OSHA, told me that the OSHA inspectors told him he had the safest, best run facility they had ever inspected. They then fined that small business owner \$1,300 for not having his paper work up to date. I guess the paper work was to prove that he had the best run facility every other day of the year.

Recently, John Boehner, a colleague of mine and yours on the Agriculture Committee called for an audit of several offices on Capitol Hill. The 140 cited violations of OSHA, that is the Occupational Safety and Health Administration Act, would have cost Congress almost \$1 million in fines, if Congress had not exempted itself from the OSHA law.

By exempting ourselves from laws, we are denying Members the opportunity to experience firsthand the effects of the laws we pass. A comparison can be drawn between Congress and executives at General Motors, America's largest corporation.

Ross Perot, while serving on GM's board, tried to put an end to the practice of top level executives trading in their company car for a new one anytime there was a problem. Mr. Perot wanted executives to take their car to the local dealership to have it repaired to

see first what its customers were thinking, feeling, and experiencing. Without similar hands on experience Congress can't appreciate the frustrations of ordinary Americans who must deal with thousands of annoying, costly regulations and laws.

As you all know, when Congress recently passed the Family and Medical Leave Act, it once again chose to exempt itself. Last month one of my district staffers told me she was pregnant, and expressed uncertainty over what my office's maternity leave policy would be. When I told her she would get the same amount of leave as is provided under the Family and Medical Leave Act, she reacted with surprise. Just like every other Congressional employee, she had no assurance that she would get the amount of leave that Congress has guaranteed other employees in the private sector.

I believe it was a mistake to remove the ability of businesses and employees to negotiate mutually acceptable benefits, and instead force them to adhere to a one-size-fits-all Federal mandate. But even though I voted against the legislation, I believe that Congress should apply all laws it passes to itself.

The Family and Medical Leave Act and the Occupational Safety and Health Act are just some of the laws from which Congress has exempted itself. Others include the Americans with Disabilities Act, the Fair Labor Standards Act, the Minimum Wage Act, the Equal Employment Opportunity Act, the Freedom of Information Act, the Age Discrimination in Employment Act, the Privacy Act, the Ethics in Government Act, and at least a dozen more.

I support the efforts of Congressman Shays and Swett to put forward legislation that would reverse this trend. As a co-sponsor of the Congressional Accountability Act, I am continuing to look for solutions to what I believe are Constitutional questions raised by the various bills introduced thus far.

The Congressional Accountability Act settles the separation of powers problem by establishing an independent office of compliance to ensure the enforcement of these laws. This office would be very similar to the Office of Fair Employment Standards.

It is also my hope that making Congress subject to the laws we pass will create greater caution in this body in examining and overseeing the enormous body of regulations put forth by the various departments and agencies of the Executive Branch. It would create interest in looking before we leap, by requiring economic impact studies of new and current regulations.

It would, I hope, generate support for more sunset laws requiring Congress to act again after regulations have taken effect, and after we have had input from our constituents, business men and women, workers and consumers about the impact these regulations have upon productivity, profitability, and the loss of jobs in our economy.

Finally, it would, I believe, create greater support for independent review for the regulatory process, which currently places all power in the hands of the regulatory agency. The same agency which draws power and justification for its existence and the expansion of its budget and staff by enforcing regulations is the agency that now writes them. This is a system without adequate checks, and is out of control in its damaging impact on our economy.

But the road to reform must begin here in the Congress, where we must take responsibility for our own work by making ourselves subject to the laws of the land. As a member of the freshmen class I am proud to be associated with a group of reformers. I believe that our ideas will make a difference if we all work together.

I urge the Joint Committee to endorse the initiative calling for Congress to abide by all laws.

I thank you for the opportunity to testify today.

[The prepared statement of Mr. Goodlatte is printed in the Appendix.]

Mr. EMERSON. Thank you very much, Mr. Goodlatte, for your contribution here.

As you know, we are about to conclude our hearings. We have been holding hearings since January, and have no deliberations, no debate. Your recommendations come in a very timely way, because we are about to get down to the brass tacks of making recommendations. All of your suggestions there do, indeed, fall into subject areas that we are going to be debating very seriously.

I thank you for your presentation here today.

I ask my colleagues, Ms. Dunn and Mr. Allard, if they have any comments or questions?

Mr. ALLARD. Thank you, Mr. Chairman.

I don't have any questions or comments at this point. I would like to congratulate you on your thoughtful comments. I appreciate your taking the time to testify before this committee.

Mr. GOODLATTE. Thank you, Mr. Allard.

Mr. EMERSON. Ms. Dunn?

Ms. DUNN. Thank you, Mr. Chairman.

I am sorry I didn't hear all of your testimony. We know of the problem with our frantic schedules. I did want to tell that you should feel that you are speaking to the choir right now.

On the Family and Medical Leave Act, for example, we were allowed to take a vote on this early in the Congress, and voted to create the situation where Congress would have to live under that law; voted in favor of that, but lost the vote to the other side of the aisle. I think that as we put together a package that we will take to our Joint Meeting, there will be some reference to this sort of thing that we think is so important.

Thank you, Mr. Chairman.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. EMERSON. There is a recorded vote at this moment in the House. I suggest we recess and go vote, and reconvene at 2 o'clock p.m.

Oh, it is a series of votes; perhaps we should proceed. I see our other witnesses are arriving here. I don't want to deny anyone, or cut anyone off.

What is your pleasure?

[Discussion among Members.]

Mr. EMERSON. Our panel before us, Representatives Fowler, Tor-kildsen, Shepherd and Fingerhut, chose to appear as a panel. They are all freshmen. I imagine you are representing the freshmen class in your presentation here?

Ms. SHEPHERD. Yes, Mr. Chairman.

Mr. EMERSON. Proceed as you wish. Do you have a lead spokesperson?

STATEMENT OF HON. KAREN SHEPHERD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Ms. SHEPHERD. We actually have a beginning, a middle, and an end here. You will hear from the Democratic Reform Committee, which is Mr. Fingerhut and myself; then from the Republican Reform Committee, with whom we have had the pleasure to work.

We are very pleased to be here. Thank you so much for inviting us again. I know that you must be anxious to get this process over with. We are pleased to have been part of it.

As members of the reform committees that we serve on respectively, we are very pleased to be here today. We are particularly pleased to be with Representative Fowler and Representative Torkildsen, who led the reform effort in their caucus, similar to ours.

Indeed, over the last several months, the four of us have met several times to discuss similarities in our packages, and how we can act together to implement these recommendations. We are very proud of the bipartisan nature of these meetings, and we say that to you as a bipartisan committee, and hope that you will follow our lead and act with comity and goodwill as you craft your own recommendations.

We have already achieved success with our Republican counterparts in two areas of reform. Together, we rallied our freshmen colleagues from both sides of the aisle in support of the Congressional Accountability Act, legislation which, as you know, would subject Congress to the laws that it passes.

When we found that the passage of this legislation was recommended in both of our packages, we then worked together to add co-sponsors to the bill, and put the number at over half of the House of people who support that now. We intend to continue to push this issue.

Additionally, four of us offered an amendment to the fiscal year 1994 Legislative Branch appropriations bill that would limit the funding for the staff and offices of former Speakers of the House. This is another recommendation from both of our packages. The Shepherd-Fingerhut-Fowler-Torkildsen amendment was adopted by an overwhelming majority, and another point was scored for bipartisan reform.

We look to the future now, and to other reform efforts that we can undertake together. The freshmen Republicans have released their campaign finance reform proposals now. In a number of ways these parallel our own. The four of us intend to urge the House to implement these reforms in the areas of limiting tax contributions, lobbyists disclosure, and restricting soft money.

With that, I will let Mr. Fingerhut finish.

[The prepared statement of Ms. Shepherd is printed in the Appendix.]

STATEMENT OF HON. ERIC FINGERHUT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. FINGERHUT. Thank you, Mr. Chairman.

I hope that we have asked to submit the entire statement in the record so that we can save time.

Mr. EMERSON. Without objection, your prepared statement will appear in the record.

Mr. FINGERHUT. We will have to get to our vote, which is precisely the next point that I wish to raise.

First, I would like to echo the comments of Congresswoman Shepherd about the bipartisan nature of our work. I think we all agree that the single most frustrating aspect of the way the Congress currently functions is the inability of people of goodwill on both sides of the aisle to find ways to work together. We have tried to break that down.

We are proud of those efforts. We recognize that it is only a beginning, but we see in you, and this committee, the embodiment of our goal that this can be spread to the entire Congress. We hope you will take up that challenge.

Very briefly, the two subjects that we wish to reemphasize today have been previously testified about; the entire reform package are the subjects of the schedule and the committee system. Indeed, these two issues are closely linked, as you know.

Time and again we have said that the schedule is the number one problem among new and more senior Members. There is simply not enough time for us to attend all of the committee meetings and the floor activities that we are expected to be at. We generally sit on two committees and five subcommittees, and asked to attend four or five hearings or markups a week. Such meetings are varying lengths, but usually average three hours apiece.

As you know, we rarely stay at these meetings for the duration of the meetings. Members come and go at will, often in the middle of a witnesses' testimony. In any other circumstances, Mr. Chairman, it would be considered the height of rudeness for someone to stand up and leave the room while another person is speaking. Here in Congress, it is normal procedure. We believe that the reason we feel compelled to act this way is because of the desire to serve on a number of committees in order to be able to participate in significant decisions of the Congress.

Therefore, we ask that you work on the problem of coordinating and effectively implementing the committees schedule, together with the floor schedule. We ask that you consider going to a more complete work week—the three-week- on and one-week-off work week—and that you help us find ways to organize our time in such a way that we can be productive and responsible.

We also recognize that in order to address that scheduling problem that you need to address the number of committees, and the jurisdictions of the committees. We ask again, as we have before, that you be bold in your recommendations with respect to the jurisdictions of the committees of the House.

Finally, we need to re-emphasize that we don't address the number of committees simply because of the burden it puts on our schedule. We recognize that the reason why we are all trying to be on a lot of committees is because of the uneven distribution of work among the committees, and the uneven responsibilities among the committees. As responsible representatives of our citi-

zens we are all trying to get ourselves involved in the critical issues of the day, which why we came to the Congress.

In addressing the committee structure, addressing the schedule, we ask you to be willing to exercise the leadership that I believe this Congress has placed in you. We pledge, from the Democratic side, that we will work as hard as we can, Congressman Shepherd and I, to see to it that there is support for the boldest, strongest recommendations that this bipartisan can possibly make.

[The prepared statement of Mr. Fingerhut is printed in the Appendix.]

Mr. EMERSON. Thank you.

Ms. Fowler?

STATEMENT OF HON. TILLIE FOWLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Ms. FOWLER. Thank you, Mr. Chairman. I want to thank you for allowing us this final opportunity to address you.

As members of the largest freshmen class in recent history, we are all well aware of the unique opportunity that we have as a class to affect this body. We are really aided in the fact that you, and some of our more senior colleagues, have the wisdom and foresight to form the Joint Committee so that you can implement many of the changes on which many of us were elected.

I have to tell you that as a new Member I am routinely asked what is my greatest disappointment in coming to Congress since I have been elected. I have to explain that it is the deep partisanship that seems to have split our body right down the middle.

Some of our colleagues might share that disappointment because they think that is what the center aisle is all about, but having worked here 25 years ago on the other side of the aisle from where I now sit, it gives me a different perspective. I know that things have been, and could be much better than they are today.

I don't know what has happened between then and now, but I do know that the partisanship that grips this Congress is not good for the Country. We face some of our most difficult challenges in our Nation's history today, and talking about a Democratic solution or a Republican alternative is not good enough anymore.

I think the only way we can meet the challenges of today is our working together to create an American solution. One of those great challenges is the reform of Congress, which you have been addressing. I know I am preaching to the choir, as Ms. Dunn said earlier, because the magnitude of the challenge has been recognized by this committee. You formed a bipartisan, bicameral committee, one of the few we have ever seen. It is a great start.

Our purpose in being here today is to let you know that the 113-member freshmen class is willing to work together to help you implement the changes that you choose to recommend. When we last appeared before this committee we testified separately. We each presented you with our separate reform packages. At that time, we said we hoped to get together.

I am pleased to report to you, just as you have heard from my colleagues, we have done just that. We have had a series of bipartisan meetings, the four of us. We identified our overlapping re-

forms, and we have agreed to work together for the implementation as a team.

Now, I will turn it over to Mr. Torkildsen.

[The prepared statement of Ms. Fowler is printed in the Appendix.]

Mr. EMERSON. Let me say, there are five minutes left in the vote, I am advised. I am glad to stay, but would you like to come back? Would you like more time? There is not going to be an opportunity for Q&A here. We will accommodate your interests.

Mr. TORKILDSEN. I don't mind. We can come back and finish up. It is a brief statement, but then we can take questions.

Mr. EMERSON. The committee is in recess for 10 minutes.

[Recess.]

Mr. EMERSON. The meeting will come to order.

We have heard from Representatives Shepherd, Fingerhut, and Fowler. We will now hear from Mr. Torkildsen.

STATEMENT OF HON. PETER TORKILDSEN, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. TORKILDSEN. Thank you, Mr. Chairman. I, too, want to thank the Members of the committee for the interest that you have shown in what the freshmen class is doing.

In the past, reform suggested by freshmen were often overlooked, or even fought by more senior Members. But this year, you and other Members of Congress, are showing serious interest in making this institution function better. That attitude has helped allow us to succeed.

We worked together to help get 225 co-sponsors for the Shays-Swett Accountability Act, applying all laws to Congress. Every single Republican freshmen, and most of the freshmen Democrats, have signed onto this legislation and are helping move it through the process.

We have also worked together with the strong support of Congressman Porter Goss to eliminate the former Speaker's fund in the legislative appropriations bill. While there were differences on this issue, we were able to work them out and successfully pass an amendment on the House floor. We are now working to pass a similar amendment this week on the funding of former Presidents.

In addition to these proposals, we are continuing to find reform issues that fit both parties' agendas. We are finding common ground on campaign finance reform, lobbying reform, and government waste issues. These are problems both parties want changed. We are working to find agreeable solutions for both sides of the aisle.

While we do have disagreements, we work under the premise that reform is beneficial. This premise keeps us moving toward our goal. The bumps are always minor when you keep an eye on your destination at the end of the road. That is the advice that I would like to leave with everyone on this committee today.

If you are serious about reform, and I believe every Member in this room is, then you will be able to come up with some serious reform proposals.

I thank you again for hearing us today. We appreciate the support you have given us, and would like to offer you our support in your efforts. Change is always a difficult thing to achieve, but with the willingness to work hard, a strong desire for real results, and an appreciation for bipartisan solutions, we can all succeed.

Thank you.

[The prepared statement of Mr. Torkildsen is printed in the Appendix.]

Mr. EMERSON. I thank you, and thank all of you for your contributions to today's hearing.

I'll ask first Mr. Allard if he has questions?

Mr. ALLARD. Thank you, Mr. Chairman.

I would like to compliment all of you for your cooperative effort in a bipartisan spirit. I think that is great. I think it indicates just how strongly a lot of the American people feel out there. You are all new Members to the House. Obviously you felt the concern at the grassroots level about the way Congress does business.

My class came here one Congress before yours, the 102d Congress, and we have had some serious concerns, too, as far as reform, and what we can do to make the House of Representatives a better place in which to do business. I wondered what you might think of forming a coalition between the 102d and 103d class, and trying to find some common issues that we can all put together, and maybe even move this issue of reform further ahead. I'd like to hear from both Republicans and Democrats on that issue, if I might, please.

Ms. FOWLER. I think we would welcome that, Mr. Allard, because I think the more of us that work together, the more we can get accomplished. On behalf of our freshmen Republicans, I think we would welcome that. Hopefully, you could get a bipartisan group from your class together, too, the same way we've done. When you put all of us together, that would have some impact.

Mr. FINGERHUT. I would second Ms. Fowler's comments and underscore the word bipartisan in your invitation. I take it that invitation was in the same spirit we have met.

In Congresswoman Fowler's testimony she said what I can only endorse. That is that it is our perception not only that we are stunned by the level of partisanship in this body, but that it has gotten continually worse over the years and not better. Certainly the 102d was no exception. We would like very much to not only use our class to help erase that, but to maybe go back and undo some of the things that have contributed to that process over the years.

Mr. ALLARD. I have gone down and looked at some of the positions that my class took, and some of the ones that the freshman Republicans and the Democrat freshmen have taken, and seen three, maybe four, areas that are real obvious that look like we could come to some agreement on.

One would be some type of reduction in committees, whether you are talking about a total funding in the Legislative Branch, or whether you are talking about committee budgets. We could sit down and kind of talk about that. Both of your classes have taken a little different perspective on this, but at least we have the same concern. We have identified that.

The other area is multiple referrals, where we have both classes, and I think our class would agree, that many times our legislation gets referred to too many committees. Then it never makes it out of the process, and some very good legislation gets lost. From what I understand of the position of your class, we all have a common ground there.

I see some common concern as far as printed bills before us soon enough so we understand what is in the legislation. You should not be asked to vote on legislation where you don't have adequate time to review printed legislation.

The fourth area is a closed rule issue and extended debates. Everybody would like to see a little more opportunity for debate, and maybe a little more open rule than we have had in the past.

Those are four areas that I have identified where I see all of you being able to come together with our class.

In addition to that, I wonder if perhaps maybe a statutory line-item veto, for example, wouldn't have some possibilities. I happen to feel a Constitutional line-item veto is the best way to go, but certainly, if we can't get that passed, a statutory approach might work. I see some concern on both sides that are a bar to a statutory approach to the line-item veto.

In consolidating management between the House and the Senate, perhaps we can see if we can't have less duplication in both bodies. Perhaps we can have a more friendly, family-like Congress.

Those are areas that I have been looking at. If I have addressed an issue that you think might be a problem, or one that you think has particular appeal to you, I would appreciate any comments you might make to me on those issues.

Mr. TORKILDSEN. Some of the items we have discussed. The line-item veto is something the Republican freshmen came out and endorsed. We have discussed it. I think there was some disagreement among the freshmen Democrats. Maybe Erik can refresh my memory on that.

Some groups were concerned about giving a President too much power. My perspective was that any chief executive, Democrat or Republican, needs that power. We hadn't reached agreement there.

Certainly a lot of the areas that you bring up should be part of a reform package, should be a basis for discussions between parties. I also want to second your thought of teaming up with the 102d Congress as well.

One of the reasons I think we have been successful is there is strength in numbers. If we had only been 30 or 40 freshmen, I doubt we would have succeeded on getting a majority of the House to co-sponsor the Shays-Swett Congressional Accountability Act. We may not even have succeeded in getting to the floor with the amendment cutting off the former Speaker's fund. The strength in numbers is very much helping to bring our arguments to people's attention.

Mr. ALLARD. Thank you.

Mr. FINGERHUT. I would add, Mr. Allard, that the whole list that you have suggested is a worthy list for our discussion. Let me pick out two items for particular comment.

One is the whole subject of having the legislation before us in order to review it sufficiently before deliberating on it and voting.

It is tied together with the subject of debate, and the quality of debate and deliberations in which we are engaged. It is also tied to the subject of the schedule, which I spoke about before we broke to take the vote.

There is no question in my mind in the belief that I speak for the majority of the freshmen Democrats on this point. The lack of quality debate on the subject of legislation, and the lack of an ability to be present for that quality debate is a serious problem that those of you who are particularly focused on the House side of the deliberations of this committee should address.

I link all of those issues together, because I think we would find that reading a piece of legislation is perhaps instructive, but more instructive is being involved in a truly enlightening debate in which the issues are parsed through.

I should comment on the subject of the line-item veto, because it has been raised. First, I'll tell what the freshmen Democratic Task Force did on the subject. We did not include it as recommendation for the following reason: There may well be a majority of freshmen Democrats who support it. However, in our deliberations those who are opposed were so opposed as a matter of conscience with respect to the Constitutional balance of power between the President and the Congress. They were so much opposed that it would have compelled them in their conscience to separate themselves from the entire package. In seeking a consensus as we were, we felt that this should therefore be left as a matter of individual conscience.

I think you find a lot of freshmen Democrats willing to work together on that subject apart from our task force simply because we agree. I should comment, because I think that these hearings should be as frank as they can be and not just exercises at building the record, that on the subject of partisanship and working together, there is a high level of frustration on our side of the aisle with the experience of the so-called modified line-item veto vote that we went through.

Indeed, a majority of freshmen Democrats supported that measure. In fact, a number of us went to the Speaker and to the leadership repeatedly seeking to have that item brought up for a vote. As you know, our leadership went to great lengths to convince members of our caucus who, as a matter of conscience were against it, to support the rule in order to be willing to bring that measure to the floor so that some version of a line-item veto can pass.

There was, in all honesty, a great deal of frustration on our side that our Republican colleagues and friends, both freshmen and more senior, were not willing to support that rule, even though while it may not have been a perfect rule, we felt it was fair and it presented both full line-item veto versions that Mr. Castle and Mr. Solomon were presenting, and the so-called modified line-item veto.

If there is a way, through this committee's work, to alleviate those situations where the frustrations and the partisanship level really turn up, I think it would be a great service. The fact of the matter is that the majority of the Members of the House of Representatives supports some version of a line-item veto. But because of our procedures and because of our partisanship, it became a gut-wrenching, horrifying experience instead of an uplifting, substantive debate.

Mr. ALLARD. There are three areas on the line-item veto. There is the Constitutional provision; then there is the statutory; then there is just a recision process. I was thinking in terms of the statutory approach, realizing that people feel very strongly about that Constitutional line-item on both sides. It is hard to bring that one into a compromise, but perhaps maybe a statutory approach could be made, which would be a little more significant than just going with a recision, which was basically taken away from the President in the 1974 budget bill.

That is one I thought I would throw in for a little discussion, and feel everybody out and see how they felt about that.

Mr. FINGERHUT. I thought it was helpful to give an example of an issue where you would think we would be able to work together, but we were unable to do so.

Mr. ALLARD. Thank you very much.

Mr. TORKILDSSEN. Mr. Chairman, I would let the members of this panel know that I will try to get in touch with your offices and we will see what we can put together.

Mr. ALLARD. Thank you.

Mr. EMERSON. Thank you, Mr. Allard.

Ms. Dunn?

Ms. DUNN. Thank you very much, Mr. Chairman.

I, too, want to commend our two representatives of the two freshmen classes for being very persistent in the work that they have done in finding areas of agreement. I particularly congratulate you on the amendment that was passed that you proposed the other day on legislative appropriations.

I think the freshmen are going to be very important as we put this package of reforms together, and try to go out and get the votes we need to pass it. We are freer; we are not invested to a great degree yet in the power part of the system. We represent constituencies that we can pull on board a really good, solid, substantive reform package.

There are two things we have run into as we have been sitting through these hearings that are bothersome to me. I suspect they would be to you.

One is the lack of will that we have seen in carrying out certain processes that exist now, but simply are not carried out. For example, one of you mentioned the prospect of having three weeks in the Washington, DC, area, then one back home. I happen to support that, because I think it allows us to focus more on issues that are often very different in our districts than what we are considering here.

Yet the Senate currently has this process, but it is really not used. My sense is that if we were able to combine the House and the Senate together, maybe one would reinforce the other, and we would be able to have those five-day work weeks that we would like to have and get our work done. That shows a lack of will to me.

The other thing is simply human nature. We run into this in lots of areas, particularly where Members who have been invested in the system for a long time want to keep things the same. In our discussion, for example on the budgeting system, the appropriators don't want to eliminate Appropriations, and the authorizers don't

want to eliminate that, and the budgeteers don't want to eliminate their committee.

We may come up with a combination of this. It might be just to propose it to your budgeting cycle, which some people think is a very good way to go with oversight. But we are going to need to know that you will be willing to hop into this fray and listen to us as we describe the package that we will come out with as a group, a bipartisan group, and get behind it and sell it. I know you all will do that.

We understand there is a great deal of manipulating to be done to any package we come up with. We are eager to have your support. I just want to know that you are willing to stick this thing through to the end, and that we will be able to come out with something that really is bipartisan and keeps the deliberative aspect of the body, makes it more effective, more easily understood, and more cost effective.

I would ask you each to comment on that.

Ms. FOWLER. As I said in my opening statement, that is what we are here for, to let you know that the freshmen class will work with you. Whatever reforms you present, we will take them back to our classes and try to get some consensus and move forward, just as we have done in our other areas.

As we said, we presented our proposals to you, and since then we haven't been sitting back. We have been working together, bipartisan, trying to get these things moving. We are a class that works hard. We will continue to do so.

We look forward to getting your proposals. Hopefully we can reach some agreement on most of them so that we can work together with you.

Mr. TORKILDSEN. If I may comment briefly on the human nature aspect of it, I think everyone here knows the most difficult change is always cultural change. If you are used to things being a certain way, it is always difficult to change that. Yet, a lot of the reason many of us in the freshmen class are here is that people wanted some change in the status quo. That is a message that is sent.

We all realize that if things don't change on the Hill, there is probably going to be a lot more freshmen next cycle. That is working in our favor to try to change what is happening. Cultural change is among the most difficult changes to effect, yet for a lot of reasons it is sometimes the most important as well.

Your points certainly are quite valid, Congresswoman Dunn.

Ms. SHEPHERD. I second what Congresswoman Fowler has said, and also Mr. Torkildsen.

I think that there is no way any of us can speak for all of the freshmen about issues that haven't appeared before them at this time. Our mutual experiences on both sides tell us that there is a wide division of response whenever you bring up a very specific kind of reform. It is much easier to get general agreement than it is to get specific agreement.

What I can say is that I would work, and I am sure Erik would work very hard too, to cause these reforms to happen. We hope that we are able to do it. It seems like a window of opportunity here that would allow us to be able to do it at this moment.

Ms. DUNN. Mr. Chairman, I will just say that together this freshmen class represents half of the vote we need to pass this package. They are surely very important.

Thank you.

Mr. EMERSON. Thank you.

Mr. Dreier?

Mr. DREIER. Thank you very much, Mr. Chairman.

Let me say to the four of you what I said at one of the opening hearings. I believe that the fact that you have now come together in a bipartisan way, and have been moving amendments to the floor of the House, meeting to try to bring a reform package, demonstrates what I said at that original meeting.

You are the key to the success of this. Jennifer has just said that you all offer one-half of the votes that are necessary for us to implement a package in the House. There is certainly similar interests among our colleagues in the Senate.

There are a number of things that will be hotly debated in the coming weeks and months in this committee. One of the things that I want to touch on is that, Karen and Erik, you and I have met privately about the issue of this rules question. I think that I should for the record, Erik, clarify the position on that line-item veto rule.

The minority leader, Bob Michel, a Republican leader, had an amendment that he had wanted to have applied to the entire line-item veto measure. In our Rules Committee we only granted the opportunity to have that proposed amendment which dealt with the tax issue to simplify the Castle-Solomon line-item veto measure.

Our opposition to that rule was based not on the fact that we were limited in the options that we had to address that question, but by virtue of the fact that the leader of our party was denied the opportunity to have an amendment that would play across the board. I want to make it clear that we weren't saying that we didn't have the option.

Mr. FINGERHUT. Would you yield on that point, David?

We have had this discussion in private. It is so important. My frustration on that point is that I deeply respect the point you have made. Certainly there is no one on our side who has anything but the highest regard for the Republican leader, Mr. Michel. He conducts himself in a way that we would all wish to conduct ourselves in this body.

On our side, as you know, that was an extraordinarily difficult measure to achieve consensus, and to move to the floor, because of very strongly held positions on matters of conscience. So when we find ourselves with an issue like that, where we have such strong divisions, and it will require some compromise to be able to bring the measure to the floor at all, to move the issue forward on the behalf of the American people, all I was asking in my statement was that somehow I hope we will create an environment in this body where we could say to our friends on the other side of the aisle that this is an occasion where we desperately need the consideration to move an issue forward which we believe you and I together support.

I respect the point you make, and I think it is important for the record. How that was not able to be accomplished is not a matter that I wish to place blame on one side or the other, but I simply wish to site as an example of the frustration that exists in trying to move these issues forward.

Mr. DREIER. Let me tell you in light of that, I spend many hours every day dealing with the rules on every major piece of legislation that is considered on the House floor. I want you to know that I am involved in compromises as it relates to amendments that are coming up for consideration. I often have to say to some of my Republican colleagues that we are not going to be able to push to make their amendments in order in light of the fact that other amendments, which the leadership may place as a higher priority, are being made in order.

So, while we have as our top priority more open rules, it is clear that we have been moving in the direction of compromise when necessary. You of course do know the level of frustration that we have. We have all seen the graphs we have held up on the House floor that many of us have pointed to that have been outlined in the press. Ross Perot has now gotten involved in the mix on the issue of restricting Members from having the right to offer amendments on the floor of the Congress.

It seems to me that this might be a very good area for the bipartisan freshmen class to get involved. You told me, Erik, when you came up that when I was handling a rule on one measure that it was an amendment that was proposed by our colleague from Georgia, your freshmen colleague, Mr. Collins, that led you and others on your side to be concerned about the utilization of open rules.

Obviously there will be amendments which everyone doesn't like to have to vote on, or to consider. There are obviously will be some amendments that will be embarrassing. I should say that occasionally happens from the majority side to the minority side. It happened to me last night in the Rules Committee.

That is something that we have to live with, but I do believe that if the 114, now—it continues to grow rapidly—new Members of this House could come together and make the case for free and open debate in a strong way, I think that would be one of the boldest steps towards reform. Something that I have been saying in this committee for quite awhile is the single greatest reform that could come from this committee would be to simply comply with the existing rules that exist here in the Congress, rather than constantly having them waived.

That is something that I hope very much that we are going to be able to bring about. I am extraordinarily encouraged to see the four of you in a bipartisan way, sitting together. All of us up here have spent a great deal of time and effort. The people sitting behind us have spent a hell of a lot more time than any of us here on this. We don't want our efforts to go for naught. That is why a lot of this falls in your hands.

Karen?

Ms. SHEPHERD. Could I make a comment?

I think we are in a negative circle, self-fulfilling prophecy situation in the sense that the more that partisanship heightens, the

less trust there is, and the less likely there are to be open rules, the more the partisan heightens. That is the cycle we are in right.

How you go about breaking that, I don't know.

Mr. DREIER. You all are breaking it by being right here, the four of you.

Ms. SHEPHERD. This is a small step. The freshmen that met, that gathered at Harvard, for example, were by and large in favor of open rules. The Republican freshmen boycotted that meeting. We didn't have the collaboration at that point to build the relationships that needed to be built. That is in one way what this group is trying to overcome. That was something, a point at which partisanship began.

It has been very difficult. If we were to take exactly the same poll again—it was very informal at that time—I think we would have lost freshmen on the Democratic side that support the open rule, large numbers of them.

Mr. FINGERHUT. Since we have already had a brief colloquy on the subject of one example, I would indicate that though I have raised that one example on the negative side, by and large the thrust of your statement is one that I personally share wholeheartedly. The reason why I have engaged in this private dialogue with you on the floor, and with respect to other issues is to try to point out when we are at those bumps on the road why we encounter the problems, as my friend, Karen Shepherd, just said, and to try to find ways to work around them. To me, the overwhelming principle, and I speak only for myself, but I know that it is shared by the four of us, is that while the name of our party is the Democratic Party with a capital "D", the name of all of us is the democrat with a small "d," in terms of the democratic principles that we bring to bear on the deliberations on all the issues that face our Country. Clearly there has to be a way to make us all feel better about the democratic process we're engaged in. We look to the committee for leadership and we are prepared to do our part to follow that.

Mr. DREIER. Thank you very much, Erik.

Thank you very much, Mr. Chairman.

Mr. EMERSON. Thank you all very much. We appreciate your contribution.

This committee stands adjourned.

[Whereupon, at 2:45 p.m., the committee adjourned, to reconvene at the call of the Chair.]

OPEN DAYS FOR MEMBERS AND OUTSIDE GROUPS

TUESDAY, JUNE 29, 1993

UNITED STATES CONGRESS,
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS,
Washington, DC.

The committee met, pursuant to call, at 10 a.m., in room HC-5, The Capitol, Senator David L. Boren (chairman of the committee) presiding.

OPENING STATEMENT OF HON. DAVID DREIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. DREIER (presiding.) The Joint Committee on the Organization of Congress will come to order.

I am pleased to announce this week is the last week of hearings. I know the people sitting behind me are more relieved than anyone in the room about the fact that this concludes our hearings.

I should say that we have made a great deal of history. We have compiled the largest load of information on the reform of Congress ever put together. We have had more hearings than I think I have even participated in on the House Rules Committee. I listened to almost as many of my colleagues as I have on the Rules Committee.

Today, we are going to go through as many witnesses as possible. And I should say at the very outset that we are going to ask every witness to be extraordinarily brief because we have two hours to get through I think it is 118 witnesses, maybe not quite that many, but we are going to try over the next two hours to hear as many people as possible.

I know at the outset we are going to have the statements of every witness fully incorporated into the record, and I am going to ask everyone to summarize as briefly as possible.

Our first witness today is my very good friend, Representative Neal Smith of Iowa. He was first elected to the House in 1958. He has told me many war stories about what the Congress was like back then. He currently serves on the Appropriations Committee and the Small Business Committee.

We welcome you and look forward to your testimony.

STATEMENT OF THE HON. NEAL SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. SMITH. Thank you very much, and I will be brief.

I appreciate the difficulty you are facing with this committee and the kind of task you have. I was Chairman of the House Democratic Committee on Organization and Review of the House Rules for a number of years, and, in fact we offered the substitute that defeated the Bolling Committee report by a 40-vote margin. So I know the difficulty you are going to have in putting together a recommendation—

Mr. DREIER. We have heard about that one.

Mr. SMITH. —that will be accepted.

I just wanted to say in passing, the Bolling Committee made the mistake of trying to make the effective date too soon and it got personalities mixed up with long-term objectives. So that is one thing you ought to avoid. Anything before the next Congress is probably only going to get personalities mixed up with consequences, and that colors people's ideas of what you ought to do. In other words, you ought to separate the long-term effect from the short-term objective.

There are three objectives in legislating that I want to address. We are not effective. We are taking too much time to do the work that we do. The next objective is that we are not getting this work done on time. And the other is that we don't have time, I don't believe, to seriously consider the legislation that is under consideration.

I think that a large share of this, a large share of our problem, relates to tardy authorizations. And in large measures we have these tardy authorizations because we have too many one-year authorizations rather than multiyear authorizations.

In the House this year, for example, on the Floor, we have spent most of our time considering authorizations that should have been passed before last October the 1st. That was when downtown they started working on the appropriations for those authorizations. And we should have been passing 1995 authorizations the last two or three months instead of 1994 authorizations, preparing for next year.

As a matter of fact, some of the 1994 authorizations have not even been passed for bills that we are appropriating for this week. Sixty-six percent of the bill that I handle is not authorized, and that should all have been authorized before last October the 1st.

Well, we are really on a three-year cycle. One year is to develop the program, one is to consider the authorization that relates to that program, and the third is to implement the appropriation. And even in that year of implementation, you need mid-year corrections, because the programs are so big.

But to illustrate what I am saying here, I will use a specific example, and I could use others, but I will use one because it seems to be the one that we are having the most trouble with right here. The Defense Department started formulating their 1994 request last October downtown. They didn't have an authorization to go by. So, in February or March, they presented an authorization based upon their idea of what an authorization ought to be. They didn't have to present one based on guidelines that ought to have been laid out in legislation. So, the Appropriations Committee held hearings this spring, just concluded them, on the Pentagon's idea of what an authorization ought to be rather than upon a specific law.

In fact, it was the last Pentagon's idea of what an authorization ought to be rather than a law that had been passed by Congress. The authorizing committee then held hearings on the appropriations request rather than holding hearings on an authorization for 1995. And the appropriations have now been held up waiting for the authorization that is already obsolete.

This illustrates what our problem is. It started when Admiral Vincent left. It started in the Congress after that. We didn't used to do this. We had multiyear authorizations. He really set policy in those years.

By contrast, we have a five-year agriculture bills. Education bills are four-year bills. Health bills are mostly three- or four-year bills. Science and tech bills are multiyear bills. The appropriations request and the appropriations hearing is based upon the law, not upon what someone downtown thinks authorization ought to be.

They have four or five-year authorizations, and they have time for oversight. They can fine-tune in between. They can have annual bills fine-tuning them. They can explore the changes in policy.

Now, there is a way to change this. It isn't that difficult. If we had a rule that said no authorizations should be eligible to take up the time of the Floor unless the authorization is for years in advance of what is being appropriated at the present time, it ought to be two or three years in advance. Or, it could provide for phasing out the authorized program. If they don't have the authorization passed in time, then you would have an automatic carryover, but the Appropriations Committee would be limited to the amount of money that was in the last appropriation and no changes in the law. If that was automatic, then we wouldn't have a lot of these problems.

The committees would also have more time to conduct oversight hearings, which they don't have at the present time.

The second matter I want to bring up is limiting the number on committees and subcommittees, and the number on each committee and each subcommittee, because I think that is as important as the number of subcommittees you have. The present system, I would say, started in 1975 with the Watergate group that came in. They started to let Members serve on committees that they felt they needed, which expanded the number on the committees. We have lost the balance on the committees that we used to have.

And I would say this, the Chairman of the committee ought to be the Chairman of the subcommittee on oversight. If you don't let him be Chairman of a subcommittee, then what happens is he holds jurisdiction for the full committee that should be in a subcommittee.

Mr. DREIER. The Chairman shouldn't chair any subcommittee at all, then?

Mr. SMITH. No, he would chair the subcommittee on oversight only, but not on legislation, because that affects all of the legislation that is being passed out.

Before 1975, we had balanced committees. We don't have balanced committees now. We have special-interest committees. When you limit the number that can be on a committee, it takes care of the unbalancing of the committees. Sam Rayburn even tried to bal-

ance committees beyond that, and tried to make them balanced so they reflected the Floor more than special interests.

Well, those really are the two things that I wanted to bring up that I think need to be dealt with at a minimum. I think they go a long way toward helping the problems.

Mr. DREIER. Thank you very much, Neal. That is very helpful testimony. You obviously provide us with a great deal of background on the institution. I have appreciated the private conversations that we have had on this issue, and I can assure you that the recommendations you have made are certainly going to be brought into the mix as this committee moves ahead.

We are going to need your help as we look at this very important challenge. You, I guess, have served here 35 years, so you have seen a lot of changes over that period of time and you have seen a lot of attempts made to bring about changes that haven't been implemented. Let's hope we can do it in a balanced way.

Mr. SMITH. In that time we have increased the volume of legislation so much that you just have to do this thing of getting back in, and stop trying to compress authorization and appropriations into the same year.

Mr. DREIER. Thank you.

Mr. Emerson?

Mr. EMERSON. No questions.

Neal, thank you very much for your contribution. I look forward to taking it into account.

Mr. DREIER. Thank you for being so concise.

Mr. DREIER. Our next witness is Mr. Ned Massee, representing the United States Chamber of Commerce.

We will put your entire statement, which I have before me, into the record and we look forward to your summary.

STATEMENT OF NED W. MASSEE, VICE PRESIDENT OF PUBLIC AFFAIRS, WESTVACO CORPORATION, REPRESENTING THE U.S. CHAMBER OF COMMERCE

Mr. MASSEE. Good morning. I am Ned Massee, Vice President of Public Affairs for Westvaco Corporation, located in New York City. I am also a member of the U.S. Chamber of Commerce Public Affairs Committee and chairman of its Government Process Task Force. I am pleased to testify before the committee today on proposals for congressional reform on behalf of the United States Chamber of Commerce, its 250,000 businesses, 3,000 State and local chambers of commerce, 1,200 trade and professional associations and 65 professional chambers of commerce abroad.

Mr. Chairman, I have a written statement I will submit for the record.

Mr. DREIER. Without objection.

Mr. MASSEE. In 1991, we organized the Government Process Task Force. Our mission was to consider improvements in the overall legislative and political process.

We held numerous meetings, and after carefully considering the options for improving the congressional process, we made recommendations to the chamber board of directors. The board-enforced

recommendations and previously established chamber policy are the basis of my comments today.

We strongly support the goal of the Joint Committee on the Organization of Congress to improve the legislative operations of the House, and the time for reform is now.

Last November, the American people demonstrated their interest in reform by electing the largest freshmen class since 1948. Many of them ran for office on promises of reform. They are eager to follow through on their pledges. The goal must be made that the Legislative Branch be more efficient. We need constructive reform.

The first reform that many Members of Congress and both parties agree should be made and which has broad business support is applying all laws to Congress. Currently Congress is for the most part exempt from laws it has imposed on companies and individuals. The primary defenses cited by Members of Congress are separation of powers and compliance costs. Congress does not want to fall under the control of the Executive or Judicial Branches. Separation of powers does not necessarily mean that the branches should be exempt from the law.

The provisions of all such laws currently apply to the Senate but enforcement is also in the hands of the Senate. I do not believe Congress would want the private sector to be responsible for policing itself.

In a recent poll conducted by the chamber, nearly 92 percent of its Members opposed such congressional exemptions. Clearly, there is overwhelming opposition, particularly within the business community, to congressional exemptions.

One of the key reasons many voters hold Congress in relatively low regard is the perception that Congress thinks it is above the laws it passes. By equally complying with laws, Members of Congress show leadership by placing themselves on the same level as those they represent.

With all due respect, Mr. Chairman, the Chamber supports a limitation on the terms of committee chairmen.

Mr. DREIER. I should tell you this committee goes out of existence December 31st, so I am not going to seek another term here.

Mr. MASSEE. Very good. We appreciate that. We believe that public policy would be better served with more periodic change in committee chairmanship.

Over the years of service, committee chairmen or senior committee Members have become very powerful. It encourages committee chairmen to gain substantial levels of power on a particular committee. By limiting the terms of committee chairmen, the ability for any one Member to gain an inordinate amount of power is minimized.

In addition, more Members of Congress are given an opportunity to move into leadership positions. The effect of losing a good committee chairman would be outweighed by allowing more rotation of leadership positions.

Related to the previous discussion, it is our recommendation to limit the number of consecutive years a Member could serve on a committee. By rotating committee assignments after an agreed-upon number of years, Members would have the opportunity to gain experience in new and different areas.

Precedence has already been established for limited committee service by the limitations currently in place for three important congressional committees: the House Budget Committee and the two Intelligence Committees.

Some Members of the current freshmen class were successful in obtaining committee assignments on some of the most sought-after committees in the House. This was the exception rather than the rule. But we can make this the rule by limiting the number of years a Member can serve on the committees so that slots like these would become available for the more junior Members of Congress.

Furthermore, the overlapping committee jurisdiction and the number of committees that must review legislation only impedes the process of creating good public policy.

In addition, the greater the number of committees and subcommittees that can claim jurisdiction, the greater the opportunity for legislation to die in the committees.

Mr. Chairman, let me share with you a classic example of this problem. Energy legislation typically falls within the jurisdiction of 40 other committees and subcommittees. The Clean Air Act was one and a half pages originally while the last renewal was over 313 pages.

Our final recommendation addresses the issue of franking privileges. While the chamber recognizes the need of Members to communicate with their constituents, we believe there is an equal need to establish limits and extents of acceptable usage of the franking privilege. Members should continue to communicate with their constituents on legislative issues. The franking privilege should be limited in the months prior to elections. Franked mail for campaign purposes offers an unfair advantage for incumbent Members over challengers.

In addition, Mr. Chairman, we commend the Democrat and Republican freshmen classes. There was a substantial amount of overlap between the two reform packages, including provisions on many of the recommendations I have outlined today.

In 1946, Senator Wallace H. White, Jr., of Maine, spoke on the need for congressional reform. He knew then that foregoing the opportunity to seriously reform Congress would mean missing a chance to make the institution more efficient. Congress went on to pass the reform bill that White supported. The 103d Congress now needs to do the same.

[The prepared statement of Mr. Masee is printed in the Appendix.]

Mr. DREIER. Thank you. That is very helpful.

I want to say this issue of congressional coverage is very important. Your statement that separation of powers does not mean any branch of government should be exempt from laws is a very telling statement. We regularly hear from people out there who ask, why in the world should Congress not have to comply with the laws that are imposed on us? It is very helpful testimony. We appreciate this.

Mr. Emerson?

Mr. EMERSON. Thank you very much.

Mr. MASSEE. Plus the cost. Business and industry have to comply with the cost.

Mr. DREIER. Absolutely. Maybe if we had to deal with the onerous regulations that are imposed, we might hesitate.

I will tell you very briefly, I talked about the fact that we should have Congress comply with the laws in the last year's campaign. My father was in the audience and he came up to me afterwards and said, David, you are absolutely wrong on that. Congress should have to live for one year with any regulation you consider promulgating on us. Only after you all decide it is a very, very helpful, beneficial regulation, should we have to live with it.

Thank you very much.

Mr. DREIER. We are very pleased now to hear from Fred Wertheimer representing Common Cause.

Nice to see you, Fred.

STATEMENT OF FRED WERTHEIMER, COMMON CAUSE

Mr. WERTHEIMER. Thank you. Thanks very much for this opportunity.

We have focused our testimony on two questions that go to the issue of how Congress enforces rules that apply to itself. We believe that it is essential for this committee to address these questions as part of its overall effort to try to improve the way in which Congress functions. We believe these questions go straight to the credibility of the way people look at Congress and the way Congress functions. And I think that will be very important to the committee's ability to come up with an overall approach that is publicly credible, that will lead the public to believe that there is a serious effort going on to bring about change.

We deal with two areas. One, the question of how ethics rulings are enforced in Congress. And the second has to do with how employment rules are enforced.

In the matter of ethics rules, we have long believed that it is very important as part of this process that there be an independent voice involved in the deliberations for the Congress. This has always been a very difficult question for Congress, because it involves a balance of the constitutional provisions that say Congress shall be the judge of its own rules, and the question of public credibility when a group of individuals have to in effect judge themselves and act as their own judge and jury.

There have been various recommendations made in this area. We would like to present one which we think does combine both of these interests, and that is the creation of an independent office of ethics counsel for the Congress similar in scope to the Office of Government Ethics that exists in the Executive Branch.

We would see this—each body could have its own office. We would see a head of that office appointed for a fixed term removable only for cause, with two basic functions. One, the office of ethics counsel would in effect hear initial complaints, concerns, or matters that are raised about ethical practices in Congress by a particular individual, a Member or staff, make an initial judgment about whether it was frivolous or not, make a judgment whether an investigation was required, and make a judgment about whether

er an outside counsel was required to carry through the investigation.

We have long believed that outside counsel is very important in any kind of controversial or complex matter, particularly important in that kind of situation.

In effect, the office of ethics counsel would serve the role of investigator and if necessary the office that would bring the charges. Those charges, if they were brought, would then be brought before either an ethics committee in the House or Senate or it could be an ad hoc committee.

In effect, the function of investigation and bringing actions would fall within this independent ethics counsel, but the decision ultimately would be made initially by a committee of the Congress and then by the House or Senate itself.

The second vital role we see for this committee is to carry out the process of interpreting the rules and giving advisory opinions. Again, having an independent voice doing this I think would be far more credible than the situation that exists now, and it also could serve the role of providing training.

In effect, the Office of Government Ethics in the Executive Branch, while not perfect, I think provides a very important model for the Congress in terms of determining how to proceed in this area.

One other area we think that needs to be addressed is the question of sanctions when ethics violations occur. Right now obviously the most serious form of sanction involves expulsion. Below that there are a series of findings, verbal findings about the conduct of a Member. We think far more serious attention should be paid to removal of seniority, that it should be an explicit sanction that the committee can recommend to the full body, and that the full body can impose. It is a very powerful sanction, and I think it would show the seriousness of a violation when serious violations occur.

On the question of an Office of Fair Employment Practices, let me just again make a basic point here. We believe that employees of Congress should have the same protections as employees in the Executive Branch. They do not today, and that, among other things, involves having the right to go to court if a matter is not satisfactorily resolved. It involves setting up a process here that would be independent of the Members themselves. The Senate, in particular, has made real progress we believe in recent years in setting up a process, but even in the Senate process the case can ultimately go to the Senate Ethics Committee. We don't think it should.

We think the hearing-officer approach should provide for appeal either to an independent body or to the courts. We believe it is very important for the Congress to recognize that there is no basis for denying to its employees the same fair employment practices and protections that are provided to Executive Branch officials. Thank you very much.

[The prepared statement of Mr. Wertheimer is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Wertheimer.

Let me tell you that is very helpful. Virtually every one of the recommendations you have entered into the record are under consideration. We have had discussions on these issues.

I would just like to ask you briefly what your thoughts are on the prospect of having former Members of Congress participate in the ethics process. Obviously, constitutionally they really couldn't be involved in the decisionmaking process, but in a consulting capacity, do you think that might be something that would be helpful?

Mr. WERTHEIMER. Well, we have some concerns about that, because what you wind up with is Members who still have relationships, who may now be in the business of lobbying or carrying out business before the Congress, and on the other hand don't have the accountability that a Member of Congress has.

I don't think it provides the same kind of independent role that either an independent ethics office could provide, or an outside panel could provide.

Mr. DREIER. I just want to say I would be hard pressed to believe we would see the appointment of former Members who were playing the role of lobbyist. I would think there would be an attempt made to get those involved—

Mr. WERTHEIMER. I understand that and I am not questioning the specific cases. It is just that you never know whether a Member is going to have—whether it is a lobbyist or not—some kind of business pending.

I guess our view is if you were to go that route of getting outsiders involved in the process, we would not go the route of former Members.

Mr. DREIER. Thank you very much. It is good to see you again. We appreciate your testimony.

Mr. DREIER. Next we are happy to hear from the U.S. Term Limits Organization represented here by Mr. Paul Jacob.

This entire statement will be incorporated in the record. We would love to have you summarize it, if you will.

STATEMENT OF PAUL JACOB, U.S. TERM LIMITS

Mr. JACOB. Mr. Chairman, and for the Members of the committee who aren't here today, this Joint Committee on the Organization of Congress exists because the American people are crying out for real reform in government. And nowhere is there more dissatisfaction among voters and nowhere is there more of an urgent need for reform than in the United States Congress.

I come to help save Congress, not to bash it. The United States Congress is, as we all know, the flagship institution of American democracy. It is revered all over the world as a symbol of freedom.

But as of late, Congress has been reviled and ridiculed here at home: scandal, gridlock, pay raises, lavish pensions. I don't have to tell you how the state of Congress has sunk in the minds of the public.

Mr. DREIER. We have heard about it.

Mr. JACOB. The best first step in restoring confidence in Congress among the American public is to show that this Congress respects the opinion of the American people and will institute the one

reform that comes from the grassroots and comes from the American people, and that reform is a limit on the number of terms that a Congressman can serve.

This reform from a recent poll—and there have been countless polls that show this support—shows that Democrats, Republicans, Independents, all support term limits for Members of Congress by 75 percent or greater.

Now, some say that term limitation is a simplistic idea. It is a simplistic solution. They are right. It is simple and straightforward. Simply put, Americans want representatives who truly are of the people, representatives who see themselves as on temporary leave from their communities, representatives who know that the very first day that they step foot in the Capitol, that they are there to do a short period of public service to carry out their public trust, and that one day very soon they will return to live under the laws they make.

The American people have had enough of the idea of career politicians, and they want to return to the original idea of the Founders, which is citizen legislators. This is the idea that led Thomas Jefferson after the Constitution was adopted to say it had two flaws: one, it needed a Bill of Rights; and two, it needed mandatory rotation in office. Jefferson—thank goodness we got the Bill of Rights, and now we think it is time to get mandatory rotation in office—Jefferson placed both of those as incredibly important if we were going to have freedom.

This is the same idea that led George Washington to step down after two terms in office, because he feared that whatever good he could do in office for a third term, he would do more harm by setting up a system of long-term incumbency.

Term limits will return the process of democracy to the people.

The election process in this country is in a very tough situation. Races are not competitive. I hasten to suggest that if we had the Congress under the same antitrust laws as we have business under, then we would literally be in court litigating the antitrust situation.

Term limits will mean more opportunity. Of the four women that were elected to Congress in 1992, 21 of them were elected to open seats. That means they didn't beat an incumbent. They won because there wasn't an incumbent entrenched in that particular congressional seat.

Over 70 percent of women and minorities in Congress today, again, did not beat an incumbent. They were elected to an open seat.

And what will give us open seats? Term limits will give us open seats like nothing else.

Furthermore, if you want financially competitive elections, statistically open-seat races are twice as financially competitive as are incumbent-challenger races.

Let me conclude by basically saying, Congress realizes that 14 States passed term limits initiatives last year by an average vote of better than two to one. Eight more States will be on the ballot in 1994.

Every poll shows massive, widespread, across-every-demographic-line support among the American people, and yet Congress has re-

fused to hold hearings, Congress has refused to debate the issue, Congress has avoided taking a vote on the issue, and today we were hoping to bring tremendous amounts of testimony from people all over the country. Instead I, as the best representative I can be, will speak for the people for just five minutes.

This committee has heard testimony from Members of Congress 88 percent of the time, and the remainder have been the majority Beltway insiders. It is time to listen to the people. The American people have spoken loud and clear on term limits, and yet this body, Congress, has not only failed to act, but refused to even listen.

So until this committee and this Congress become committed to listening to the American people, to giving term limits honest and open and fair debate in this body, which after all belongs to the people, then there will be no real reform.

The American people will not be fooled. And unfortunately, I am afraid this committee's work will be considered by most of the American public a joke.

[The prepared statement of Mr. Jacob is printed in the Appendix.]

Mr. DREIER. Thank you very much. We appreciate your being here. Your presence demonstrates the fact that we are having hearings on the issue of term limitation.

I should say that the issue of term limits has been regularly discussed throughout the hearings that we have had. While we have heard from many of our colleagues and former colleagues, we have all, as Members of Congress and Members of this committee, been garnering information from throughout the country on this entire issue.

I am one who firmly believes that what we need to do is address the issue of incumbency, and clearly with some of the reforms I believe will emanate from this committee, we will be diminishing that power of incumbency which often assures reelection.

I think that we need to bring about a fair and balanced campaign finance reform package which will again diminish the power of incumbency and implement fair and competitive congressional districts which can help bring about that natural turnover.

Your testimony is very helpful. We appreciate it. We look forward to having any other input that you might possibly want to provide to this committee. Thank you very much for being here.

Mr. JACOB. Thank you.

I would just hasten to add that what we would like to see are hearings not just in this committee, but hearings on the number of term limit bills that are languishing a slow death in the committees in both the House of Representatives and the Senate.

Mr. DREIER. Thank you very much.

Mr. DREIER. Next we are happy to hear from my former colleague who represents Truth in Government, Joe DioGuardi.

Joe, as I said, we are counting on you to bring us back on schedule, so we look forward to the summary you are going to provide us. Your entire statement will be included in the record.

STATEMENT OF HON. JOSEPH DiOGUARDI, CHAIRMAN, TRUTH IN GOVERNMENT

Mr. DiOGUARDI. Mr. Chairman, it is tough to straighten out the books here in five minutes. I come here as someone who spent four years in this great institution and also as someone who spent 22 years as a certified public accountant in one of the world's largest accounting firms, but I don't come here representing those two points of view. I come here drawing on those experiences, but I come here to represent the people.

I think what you have heard here loud and clear, Mr. Chairman, is that Congress is not representing the people today. There are double standards all over Congress. I saw it for four years. You saw it. You are a businessman. I think it is time to listen.

Now, let me put on the record my testimony. I will summarize it as best I can in five minutes.

Let me also put on the record a report from the Association of Government Accountants. I chaired a committee on Truth in Budgeting and Accounting. If you will, I would like to submit that five-page paper.

Mr. DREIER. Without objection.

Mr. DiOGUARDI. And also my new book, Unaccountable Congress.¹ Four of the 10 chapters—they are short chapters Mr. Chairman, and in five minutes I can't get into details—but two chapters deal with the problem and two deal with the solution, and I would like to offer for the record chapters 2 and 3 and 7 and 8. They are short. Please put them in the record.

Mr. DREIER. We will put those in the record without objection. I look forward to getting my own personalized autographed copy of the book.

Mr. DiOGUARDI. I brought 24 copies with me but I don't see 24 Members here. Where are they?

Mr. DREIER. We will see they get to each Member.

Mr. DiOGUARDI. Let me see how I can best summarize this.

People ask me, why did I name the national organization I represent Truth in Government? Mr. Chairman, the public is demanding truth. I was encouraged to wear a pin—I just gave a speech in Vermont to the Vermont Society of CPAs and a member came from the audience and said, Joe, when you testify in front of Congress, wear this pin. But I didn't want to seem arrogant so I didn't. It said, "It's the Congress, Stupid."

Now, that pin is being worn on the streets of America. Congress has to wake up. The public perceives a great credibility gap. My issue as a CPA and former Member is the issue of accountability.

What is the bottom line? We have a process here. I am not going to get into politics. A lot of it is politics, as you know. The process that I represent is about four years' worth. It starts with the budgeting. Then it goes into the accounting which only happens when you spend the money that you say you are going to spend under the budget process. And then what is the last cycle, Mr. Chairman? It is the reporting. In all three areas, a process that in the private

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sector takes almost four years, there are holes like you can't believe.

In my book I go through the 12 budget gimmicks I witnessed. Let me give you two. How about doing things off the books? The Resolution Trust Corporation was done off the books. They sold the bonds, \$100 billion, but they didn't put it on the books. It is part of the national debt but it is not part of the budget. It is called securities fraud in the SEC.

As a matter of fact, the point is made all the time that if the offices of a publicly traded corporation used the systems that Congress uses today, and the accounting rules, they would be indicted, they would be arrested and probably incarcerated under the Securities and Exchange Commission rules that you promulgate here on the private sector but refuse to follow yourself.

I don't think anything gives the message, Mr. Chairman, better than this card. I think you saw me wave it around. You still have it on you. It is your voting card. I go around America——

Mr. DREIER. I have misplaced it this week.

Mr. DioGUARDI. I put the card on the front of this book. I call it the most expensive credit card in the world. On the front of the book I say: Credit line, unlimited; expiration date, never; bill to future generations. That is what you are doing with that voting card. Because unlike the credit cards that people have on the streets of America, whether it is Master Charge——

Mr. DREIER. I occasionally vote for some cuts around here, too.

Mr. DioGUARDI. Mr. Chairman, you are just representing 24 people, you are a good guy. I am just talking about the process.

The public perceives they have limits on their cards. When they get a call from their credit card vendor and they reach their limit, they know that fiscal reality has arrived. They sit down with the family, they look at their standard of living, they might even defer a vacation. You guys don't do that. You guys just keep raising the limit, usually at 4 o'clock in the morning, and you say, let's spend more, pass it on to the kids.

We have got a credit card mentality here. What is worse than anything about it is we are not putting on the books of the United States of America real government spending.

Now, I go through 10 points. It would take a long time to go through those 10 points. It would take a long time to summarize them. But basically I am talking about accountability.

Let's give the public a good account. It is time to give them truth in government spending. You impose on the public truth in advertising, truth in lending. Isn't it time the public expects from Congress at least truth in government spending?

I know my five minutes has gone. Five minutes is a short time when you are flying high.

[The prepared statement of Mr. DioGuardi is printed in the Appendix.]

Mr. DREIER. That is very helpful testimony. I know they miss you on the Small Business Committee where you waved that credit card around, and the Banking Committee.

Mr. DioGUARDI. I see Frank Horton, our former Member here who pushed that chief financial officer bill that we have. We have

got to strengthen that bill and make sure it is not vulnerable to political attack.

Mr. DREIER. The term accountability is something I used when I testified before this committee and it is something that we have been discussing regularly here. It is accountability in every area. You've been very helpful to point out the fiscal side of it. I appreciate that.

We are happy to have you. It is good to see you again, Joe.

Mr. DIOGUARDI. Thank you, Mr. Chairman.

Mr. DREIER. Next we are pleased to hear from a very dear friend, a former colleague of ours, another New Yorker, my good friend Frank Horton. He is in the room with his bride Nancy and several friends and neighbors of his.

STATEMENT OF HON. FRANK HORTON, FORMER U.S. REPRESENTATIVE FROM NEW YORK

Mr. HORTON. Thank you, Mr. Chairman. It is nice to be with you. I would like to include my statement in the record.

Mr. DREIER. Without objection.

Mr. HORTON. Perhaps I can save a little time. Having served in this body for 30 years, I don't think it is all that bad. I think we have done a tremendous job over the 30 years I was here. And I just suggest you don't throw the baby out with the bath water.

Mr. Chairman, as you know, and my comments are directed to a very narrow part of these hearings, and that has to do with the proposal that was made to combine the Post Office and Civil Service Committee with the Government Operations Committee.

I served probably as long as anybody on the Government Operations Committee. I served 30 years on the Government Operations Committee, and the last 20 I served as the Ranking Republican or the Ranking Member of the Committee. I also had the pleasure of serving on the Post Office and Civil Service Committee for eight years. So I am familiar with their jurisdiction. I am also familiar with the jurisdiction of the Government Operations Committee.

I would like to refer the committee to the testimony of Bill Clinger, who gave some very good—he is the Ranking Member of Government Operations—background of the Government Operations Committee, and incidentally it started back in the early 1800s, 1814. I do have in my statement the background of the committee jurisdiction. Then Bill Clay, the Chairman of the Post Office and Civil Service Committee, I thought gave a good presentation with regard to that committee which started back in 1806, and became a standing committee in 1808.

Simply, I am here to oppose that consolidation. I think it would be counterproductive. I think it would limit the ability of these committees to be effective.

I always say there are two functions. One is the function of legislating, the other is the function of oversight. The Government Operations Committee has a very full plate with the oversight function.

And I think that especially what is happening today with the new idea of reinventing government, with the deficit finance problems that we have got, I think both these committees are going to

be very busy. One has complete jurisdiction over all Federal employees, postal people and that sort of thing. So in my judgment, I think it would be very disastrous, and I think it would dilute the ability of both these committees to combine them.

So with that, I am prepared to answer whatever questions.

[The prepared statement of Mr. Horton is printed in the Appendix.]

Mr. DREIER. Thank you very much, Frank.

This is an issue which is being discussed. I have heard from Members of both committees, as I know virtually everyone else on this committee has. And we are trying to decide as we look towards the possibility of merging committees. One of the things we seem to be concluding is that with a total of 266 committees and subcommittees spread out between the House and Senate, there seems to be a real interest in at least reducing the number of subcommittees.

How many subcommittees did you have on both Government Operations and the Post Office and Civil Service Committee?

Mr. HORTON. I think there are five on the Post Office and Civil Service Committee, maybe six. There were seven on Government Operations and I think they reduced that to six now.

Mr. DREIER. How would you respond to the prospect of reducing the number of subcommittees?

Mr. HORTON. I think that is a good idea. You can do that within the committee. But I think to combine those two committees would really create some very serious problems with the ability to cover the areas that they have responsibility for. But I have no problems with that. I have always maintained that we should do what we can to cut back on the size of committees.

And then also I feel it is important for us not to serve on more than one or two committees. In the early days, I know there were three committees, and we do right now have people serving on three committees.

Mr. DREIER. And even more than this in some cases.

Mr. HORTON. Yes, and I think that is tough, even with select committees and that sort of thing.

Mr. DREIER. Thank you. It is wonderful to see you again. We appreciate your testimony.

I think we have gone to a vote in the House, is that right? Why don't we proceed and I will have to leave in a few minutes, but let's proceed with Mr. Joseph Gimelli, representing Court Reporting Services, Incorporated.

We are happy to see you, sir. We will include your entire statement in the record and look forward to having you summarize.

STATEMENT OF JOSEPH GIMELLI, COURT REPORTING SERVICES, INCORPORATED

Mr. GIMELLI. Thank you.

Congress and the administration are presently grappling with the enormous task of reducing the Federal deficit. As you will note in my brief summary, which has been submitted to you, I have been involved in the business of congressional reporting for more than 58 years. The reason for my appearance before you today is to

make a recommendation which will not only achieve huge savings but will in the process add substantial amounts to the U.S. Treasury.

My recommendation: Eliminate the Office of Official Reporters to committees. Let me call your attention to a chart entitled, "The True Cost of the Office of Official Reporters," and these figures are taken from a report of the Clerk of the House, dated October 1, 1992. They have 10 stenotypists: average salary, 68,725; total, 687,250 a year. Ten transcribers: average salary, 43,788; yearly total, 437,880. Six clerical personnel: average salary, 40,278; yearly total, 241,668. Five recording technicians: average salary, 45,000; yearly total, 182,000. This comes to a total of \$1,548,798 a year.

In addition to the costs for reporting and transcribing, these employees are furnished free office space, free parking, telephones, all supplies and equipment, medical coverage and other benefits, and when these official reporters and transcribers retire, as well as all the other employees of this office, they begin receiving a retirement annuity amounting to 50 percent to 80 percent of their highest three-year income.

Then when new reporters and transcribers are hired to replace retirees, these new salaries must be added to the amounts received by the retirees in order to arrive at the actual cost of producing each page of transcript.

Take my own case as an example. The annuity I receive is \$12,000 more than my salary was when I retired.

Next, let me call your attention to a chart showing a comparison of costs between the Office of Official Reporters and private industry. Salaries of official reporters, which are direct costs, \$16 a page. Office space, they have half of an entire corridor on the 7th floor of the Longworth building, including two large rooms in the Cannon building. Hardware and equipment is shown at \$1.5 million. This is merely a recent expenditure. Retirement I have covered. Standard government benefits, \$450,000 a year, and this is an OMB estimate. Total cost per page, a staggering \$45.

Contrast this to what is shown at the right of the chart. No additional costs right down the line. Total cost per page a mere \$5.10, plus an additional charge when a computer tape is required.

The Office of the Clerk will argue that the official reporters are needed in the House to cover classified hearings, to attend hearings which require special handling, to cover hearings in the event of an emergency. Unlike the House, the Senate has never had an office of official committee reporters. Are House hearings more classified than Senate hearings? Do House hearings require more special handling than do Senate hearings?

Mr. DREIER. Some would argue they do.

Mr. GIMELLI. How has the Senate handled emergencies over all these years, or do emergencies occur only in the House?

My recommendation, let the staff director of each committee, with the approval or by the direction of the Chairman, appoint the reporting firm best qualified to serve the needs of the committee. Certainly that staff director and the Chairman are in the best position to evaluate the quality of the service they receive.

This is a vast improvement over the procedure in the House now, where committee personnel have no voice regarding the firm as-

signed to them, regardless of quality of service. If the Senate committee is dissatisfied with the work of the firm doing its work, they get someone else.

The House has legislated page rates in place. Pay the reporting firms that legislated rate. Let revenue from sales of transcripts revert to the U.S. Treasury. Retain only a single clerk to handle those sales, which will leave a considerable amount left over to be deposited with Treasury.

Now, lest some might feel it would create a hardship to let the officials go, among my inserts, the last page, there is an advertisement contained in the magazine of the National Court Reporters Association, wherein it guarantees stenotype reporters a minimum of \$75,000 a year. Regarding salaries of new hires, the officials have informed the Clerk of the House that this is what stenotype reporters can also expect to earn in Washington.

One last comment, if I may. For the past several years, the operation of my office has been turned over completely to my son, Jay, whom many of you know, and a very capable and dedicated office manager, Mr. John Voss. When I informed Jay of my intention to appear before your committee, his reaction was one of total shock. He totally expects that there will be repercussions against this office as a consequence of my appearance. However, I have felt this presentation has been long overdue.

Thank you for permitting me to address you.

[The prepared statement of Mr. Gimelli is printed in the Appendix.]

Mr. DREIER. We thank you very much for being here. I should say this is an issue which really has not been discussed to date by this committee, and those are very interesting figures that you provided to us. We are happy to have you. Thank you very much.

Mr. DREIER. Next we are happy to hear from Mr. Richard Gutting, who is representing the National Fisheries Institute.

Mr. GUTTING. Again, we will incorporate your entire statement in the record and look forward to your summary.

STATEMENT OF RICHARD GUTTING, JR., NATIONAL FISHERIES INSTITUTE

Mr. GUTTING. I will summarize, Mr. Chairman.

We are the fish folk. We are the people who grow fish, harvest fish, process, market it. If there is a fish in the room, probably one of my members is there.

We are here to respond to one of those suggestions that has been made to the committee which is buried away in all that paper, which you talked about at the beginning of the hearing, which we hope still will be buried at the end of these proceedings, and that is the suggestion that one of the things Congress ought to do is eliminate the House Merchant Marine and Fisheries Committee, split up its jurisdiction and spread it out among other committees. We are here to tell you we think that would be a very bad idea.

We have three basic reasons for this. First is that this committee works; it has been very successful and productive. In the 1970s it passed the Magnuson Act. This extended jurisdiction up to 200 miles. It broke the dominance of foreign fleets in U.S. Fisheries,

and sparked a boom in our seafood employment and production. The value of our production went up five times, employment doubled.

The committee has been very, very effective since then in oversight of this program. And the reason why it has been, it has regional representation. In our industry we have very diverse people, diverse fisheries. You have got to have reasonable representation. That is what this committee has.

The second reason is we think Congress is going to need this committee to address the oceans. We have pushed down our sovereign jurisdiction to 200 miles in the 1980s. What we have got out there is a surface area three times the size of the public lands. Congress has enacted a whole series of individual programs, a fishery program, a maritime program, a dumping program, and that is all well and good, but we are running out of space, it is getting very crowded out there.

We have \$80 billion worth of activity in this area, and the time has come where we have got to integrate these programs, pull them together, and tell the American people exactly what our goals are. We can no longer run these single, one-dimensional programs. Without integration, the Merchant Marine and Fisheries Committee is the place to do that because they have got the expertise.

The final reason is just like the oceans and the area of the environment, we think the Congress needs this committee. It is a common misperception to think of this committee as just a Merchant Marine Committee. This committee has broadened its interests and jurisdiction, passed a whole series of laws on the environment.

I don't need to tell any Member of the Congress how controversial the issues of balancing jobs versus the environment is these days. This committee has a depth of expertise that we think is going to be needed. More than that, it has the ability to bring people with diverse views together.

You are going to hear at the end of this morning testimony from Greenpeace and the environmentalists, how we got together—we, the fishing industry and the environmental community—to solve some of our problems. We developed a proposal which we are presenting to the Congress. This bringing people together, working through consensus, is a hallmark of this committee, and we think it would be a tragedy to lose it.

Thank you.

[The prepared statement of Mr. Gutting is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Gutting.

I should tell you this committee has had the opportunity to hear from the Chairman and Ranking Member of the Merchant Marine and Fisheries Committee. We have heard individually from virtually every Member on a one-on-one basis of the committee, and a very compelling case has been made. We appreciate your thoughts on it.

Mr. GUTTING. We are very grateful that you asked us.

Mr. DREIER. We are pleased to hear from Mr. Tom Schatz, who is representing Citizens Against Government Waste.

We are happy to have you, Mr. Schatz. We will include your entire statement in the record and look forward to your summary. It is nice to see you.

STATEMENT OF TOM SCHATZ, CITIZENS AGAINST GOVERNMENT WASTE

Mr. SCHATZ. Thank you, Mr. Chairman.

I am pleased to appear before you today on behalf of the 550,000 members of Citizens Against Government Waste.

There are few more important endeavors in the 103d Congress than the work of this committee. Taxpayers are demanding a more responsive and accountable legislature, and they are watching closely to see if real and effective changes can be made.

It is no wonder that term limits continue to receive overwhelming support and adoption in every State where the issue has been on the ballot. Voters are saying "enough."

Here are some ideas about how to remedy the problems identified in radio talk shows around the country.

First, the number of committees and subcommittees should be reduced and proxy voting in committees should be eliminated. At the same time, Congress should streamline the number of Federal agencies.

Second, House and Senate rules should be amended to absolutely prohibit waiving rules which require time to review legislation prior to a vote. In the business world, major investments are not made without reviewing a business plan or considering the consequences of actions.

Third, it is time to end legislation by the unelected. Congress is not 10 or 20 times more effective than in FDR's day when the staff numbered two and three for each Member. A reduced staff must accompany a reduction in the number of committees.

Four, restricting amendments eliminates opportunities for Members, especially those who do not have a long-term vested interest in programs to offer alternatives to the status quo. The House leadership should open up Floor debates.

Five, Americans work Monday through Friday, 9 to 5, and they can't understand why the House seems to only work three days a week. It doesn't matter how long Congress actually works, as long as they solve the nation's problems.

Six, not living under the laws which are made for the rest of us gives the taxpayers the perception that Congress is out of touch with the real world outside the Beltway. Applying the laws to Congress will give reality to the consequences of legislation.

Seven, when taxpayers hear about National Tea Day or American Sewing Week and learn that 35 to 40 percent of legislation enacted by Congress is commemorative, they get even more upset about the waste of their tax dollars. A bipartisan commission should make recommendations on commemoratives directly for review and approval to the President.

More than 95 percent of legislative hearings call for more or new spending programs and less than 1 percent actually speak in opposition. committee hearings are not always open or accessible to the public. Let's have a sunshine in Congress law.

Let's appoint an Inspector General for the House and Senate. And let's prevent add-ons and change the seniority system limiting and rotating committee service.

Mr. Chairman, you and the Members of this committee have a formidable task. Creating a more responsive, open and accountable Congress is a major step in curing the fiscal ills of this country. Taxpayers deserve no less.

[The prepared statement of Mr. Schatz is printed in the Appendix.]

Mr. DREIER. Thank you, Tom. That is very helpful testimony.

You are looking at a couple of people who are extraordinarily sympathetic with most of what you said.

Mr. Emerson.

Mr. EMERSON. Thank you for your statement. I am sorry I was not here to hear all of it. I did hear part of it. My curiosity was piqued.

What do you think people think that we do when we are only here three days a week? What do you think they think you are doing the other four?

Mr. SCHATZ. I think the perception—and I worked up here for six years and I know there is a lot more to it—this life is not a picnic, there is no question about it. But I think the perception is that taxpayers think the other four days it is simply running for reelection.

Mr. EMERSON. You know and I know that is not true. Why doesn't somebody in some objective circumstance tell them what we really do? As long as we exacerbate the misperception, it is only going to get worse.

I find a lot to argue with how Congress does its business, which is why I welcomed the opportunity to serve on this committee in hopes to get some of those things straightened out. I don't think we will fix anything by simply exacerbating misunderstandings.

Frankly, I think a lot of organizations raise their funding by bashing Congress. I have long been concerned with the proposition that for the most part the media, when something ticklish about Congress comes along, rather than try to give all the facts and the full story, I have said instead of educating and elucidating, they will do anything to exacerbate. I suppose when you are kicking Congress, it sells newspaper or it sells television time.

While a certain amount of that is appropriate, it is not the whole story, just as three-day work weeks for Congress is not the whole story.

Mr. SCHATZ. Mr. Emerson, I did preface my remarks by pointing out that these are things I have heard on hundreds of television and radio interviews over the last couple of years. I am reflecting what I have heard. Some of these things are things that I think need to be fixed. That is clearly a perception that people outside of Washington have about what really goes on in Congress.

Mr. EMERSON. Let me repeat one of my favorite slogans again, that if Congress would deal with realities, the perceptions would take care of themselves. I think there is an element out there that if by some means Congress became more perfect than it now is, I think you would still have Congress bashers, notwithstanding what level of reforms we may achieve.

Mr. SCHATZ. Mr. Emerson, if you could eliminate government waste, I would be happy to be put out of a job.

Mr. DREIER. Thank you. We appreciate your testimony.

Next we will be happy to hear from Mr. David Slade, representing the Coastal States Organization.

Mr. Slade, we are glad to have you here. Your statement will be included in the record and we look forward to hearing your summary.

STATEMENT OF DAVID SLADE, EXECUTIVE DIRECTOR, COASTAL STATES ORGANIZATION

Mr. SLADE. Thank you.

I will do my best to be brief. I am Executive Director of the Coastal States Organization. You are from California. I hope you have heard of us. We represent the Governors of the States on the Atlantic, Gulf of Mexico, Pacific and the Great Lakes.

We came together 24 years ago in 1969 because the 30 coastal States have a lot of common interests, including the fisheries, offshore oil and gas development, energy facility construction, whether the energy facilities are nuclear power plants, coal power plants or oil refineries, water pollution, maritime navigation and commerce ports, dredging and environmental conservation, whether they be sanctuaries, reserves, parks, wetlands, endangered species, or marine mammals. All these common interests drew the States together 24 years ago for the Governors to establish the Coastal States Organization.

Twenty-four years ago we started working with Congress. One of the very first acts was NEPA, the National Environmental Policy Act, the Water Pollution Control Act, the Coastal Zone Management Act, Marine Protection Resources Sanctuaries Act. We have dealt for the many years with the established NOAA and EPA which are also about the same age as our organization. So we have been dealing with Congress across a broad array of common issues that the 30 coastal States share.

From that perspective, I would like to emphasize two points in my testimony today. For the sake of sound State and Federal intergovernmental relations, that is between the State governments, and I represent 30 of them here today, and the Federal Government, especially with Congress, for those intergovernmental relations and also for sound coastal ocean and Great Lakes resource management, we would like for this committee to bear in mind as you go through your deliberations consolidation of the jurisdiction over these areas within one committee.

Let me give you an example of some of the problems, and it is mere coincidence that it is off California. I am not that shrewd, but a few years ago your thresher shark fishermen wanted to fish for thresher sharks exactly where Exxon Oil Company wanted to drill for oil. They both wanted to do those same things at the same time. The controversy ended up in the Supreme Court. For several years no one fished for thresher sharks and no one drilled for oil off of that area of California.

Part of the reason that that was a problem to begin with was directly related to the organization of Congress. The committee that

overseas OCS oil and gas development and the committee that overseas fisheries management, especially on the Senate side, are different. It correlates with different Federal agencies.

On the Senate side that fragmented committee jurisdiction is worse than what we see on the House side. On the Senate side we deal with three principal committees, Commerce, Environmental and Public Works and the Energy and Natural Resources Committee; where on the House side, we are dealing predominantly with the Merchant Marine and Fisheries Committee.

I would like to join my remarks with the others of those who supported this committee here before this committee, the Merchant Marine and Fisheries Committee has been the dominant one that the coastal States have been coming to over the past 24 years. We would like to lend our support in keeping that committee and using it as a nucleus of which to form a better committee with even more jurisdiction over these common interests.

Thank you, Mr. Chairman.

[The prepared statement of David Slade is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Slade. We appreciate your testimony.

Mr. Emerson, do you have any questions?

Mr. EMERSON. I have no questions, thank you.

Mr. DREIER. Thank you.

I am familiar with your organization. We appreciate the input you provided.

Mr. DREIER. Next we are happy to hear from Beth Marks representing the Antarctica Project.

Ms. Marks.

STATEMENT OF BETH MARKS, DIRECTOR, THE ANTARCTICA PROJECT

Ms. MARKS. I would like to thank you for the opportunity to testify today. I am Beth Marks, Director of The Antarctica Project. This statement is being presented on behalf the 25 U.S. member organizations of the Antarctica Ocean Coalition, representing millions of Americans.

Citizens of this country and especially as residents inside the Beltway, we appreciate the formidable task you have in recommending needed changes to improve the way Congress works and enable it to function more efficiently. However, we are concerned that the advice offered to this committee in several well-intentioned reports to disband the House Committee on Merchant Marine and Fisheries will decrease Congress' ability to respond effectively to vital marine and coastal and fisheries issues.

The basic objective of reforming Congress is to improve the way it works and to improve the quality of its decisions. Disbanding the committee on Merchant Marine and Fisheries will have the opposite effect.

The House Committee on Merchant Marine and Fisheries is the only congressional committee which has expertise in a wide range of fisheries and marine issues. Disbanding it and dividing its responsibilities among several committees will decrease the ability of

Congress to make reasoned, well-thought-out decisions not only with respect to domestic and international fisheries issues, but to domestic and international conservation issues as well.

If the committee is disbanded, this knowledge, expertise and institutional memory will be lost, as Members and staff are reassigned to other committees. The emphasis currently given to these critical issues will be diminished as they are added piecemeal to the workloads of other committees.

With respect to the committee's leadership on domestic and international environmental and fisheries issues, I would like to concentrate on Antarctica. The Committee on Merchant Marine and Fisheries has always been on the cutting edge of policy decisions with respect to the protection of the Antarctic environment and the conservation of its living resources. Under its leadership, U.S. involvement in Antarctica has been articulated through the Antarctica Conservation Act of 1978, the Antarctic Marine Living Resources Act of the 1984, and the Antarctic Protection Act of 1990.

The protection of Antarctica is not just an esoteric environmental issue. Antarctica represents 10 percent of the earth's land mass and 10 percent of its oceans. Because of Antarctica's central role in regulating global environmental processes impacts, this could adversely affect the world's atmospheric and oceanic systems, including global tides and sea levels.

Destruction of these systems could well influence the health of our coasts and seas, impacting maritime and fisheries industries, not to mention the overwhelming proportion of Americans, and citizens of other nations who live on or near a coast. The protection of Antarctica, therefore, is important for the citizens of the world.

Antarctica is governed by the Antarctica Treaty System, a collection of international treaties and recommendations which articulate policies and permitted activities in the Antarctic region. International treaties are the necessary first step in conserving the Antarctica environment, but they are meaningless unless effective implementing legislation is enacted by participating countries and the lasting national commitment is consciously made.

Because the Members and staff of the Committee on Merchant Marine and Fisheries have built up the expertise necessary to work on Antarctica issues, this committee has taken the lead in developing domestic legislation to implement those treaties and conventions critical to Antarctica conservation. The Antarctic Conservation Act outlines the rules of conduct for the preservation and conservation of living resources in Antarctica.

Research programs authorized under the Antarctic Marine Living Resources Convention Act generate the data necessary for the sustainable management of Southern Ocean fisheries.

The Antarctica Protection Act of 1990 prohibits all mineral resource activities by U.S. citizens. It calls on the U.S. to enter into international agreements designed to protect the environment.

As a result, international negotiations led to the conclusion of the Antarctica Environmental Protocol. This protocol advances basic U.S. goals to protect the Antarctic environment, while preserving the unique opportunities the region offers for scientific research of global significance.

Lastly, the Antarctic Environmental Protocol Act of 1993, introduced at the beginning of the present Congress, is designed to implement the Antarctic protocol for the United States.

The Senate gave its advice and consent to ratification in the last Congress, but implementing legislation is needed for the President to ratify. Only timely implementation and ratification of the protocol will ensure Antarctica's status as a global wilderness area and scientific laboratory safety.

We urge the Joint Committee take into consideration probable negative effects on the domestic and international environment on fisheries, on oceans and on Antarctica in evaluating the recommendation to disband the Committee on Merchant Marine and Fisheries.

The apparent efficiency offered by this solution will weaken, not strengthen, the ability of Congress to make the important decisions required for sound U.S. policy on the oceans and the environment of the U.S. and the world. By disbanding the committee, there is less chance that the polar regions of the world, including Antarctica, will get the consideration they deserve.

We urge that the House Committee on Merchant Marine and Fisheries be retained.

[The prepared statement of Ms. Marks is printed in the Appendix.]

Mr. DREIER. Thank you very much for your testimony. It will be included in the record in its entirety.

I have to apologize to the other witnesses who are here. The bells that have been going off indicate that we are going into a series of five recorded votes. Mr. Emerson and I are going to have to leave.

It is my understanding that Margaret Dunkle and Arthur Sackler, Marianne Leach and Mr. Leape of Greenpeace are here. I would like to ask all of you, if you who would like to submit your statements for the record, we are more than happy to do that. If you would like to come back, it will take us about an hour to complete this series of votes. This decision was made, by the way, at midnight last night when we adjourned. So we did not anticipate the votes when the hearing was planned.

We can come back at a little after 1 o'clock if that would be convenient. Are there any of you who would like to simply submit your statements for the record or would you all like to testify before the committee?

Marianne Leach from Coalition for a Select Committee on Hunger, your statements will be included in the record in their entirety. Mr. Emerson, who has served with distinction as the Ranking Republican on the Select Committee on Hunger, I know will look anxiously at your testimony. We appreciate that.

I assume the rest of you would like to testify. I apologize to you very much. This is beyond our control. I hope you can understand. This is one of the items that we are trying to address in our reform of Congress. So let me say that we will try to come back at about 1 o'clock. We have a hearing that is scheduled to begin here at 1:30. Between 1 and 1:30, we will try our darndest to complete all the witnesses.

Thank you all very much. The committee stands in recess.

[Recess.]

[The prepared statement of Ms. leach is printed in the Appendix.]

Mr. DREIER. The committee will come to order.

The committee will be happy now to hear from Margaret Dunkle who is representing the Institute for Educational Leadership.

We are happy to have you, Ms. Dunkle. As I have said earlier, the statements from all of our witnesses will be included in the record. We look forward to your summary.

STATEMENT OF MARGARET DUNKLE, INSTITUTE FOR EDUCATIONAL LEADERSHIP

Ms. DUNKLE. Thank you. I appreciate the opportunity to be here today to discuss how the organization of the Congress affects scheduled programs for children and families and to make some recommendations for improvement.

My name is Margaret Dunkle. I am Director of the Policy Exchange of the Institute for Educational Leadership. I will briefly summarize my remarks.

One of the most vexing problems for families, States, and localities is the confusing and often conflicting eligibility requirements for various Federal needs-based programs. For example, did you know that all of the following statements are true when it comes to determining eligibility for Federal programs?

Under food Stamps, there is a \$4,500 market value limit on the value of a car; under AFDC there is a \$1,500 equity value limit on the value of the car; under medicaid, the limit on the value per car ranges from \$1,500 equity value to excluding the value of a car altogether; and on the Pell Grant Student Financial Assistance Program, there is no limit on the value of a car.

I would ask how many people sitting around this room could gladly recite the exact market value of their car.

Mr. DREIER. Most people would probably place it a lot higher than it actually is.

Ms. DUNKLE. That is probably true. How long would it take you to figure out the right number if you realize that if you gave the wrong number, you might be accused of fraud and denied help altogether. A major reason for the inconsistencies in these Federal provisions comes out of seven different Congressional committees that the Congress currently uses to authorize these various provisions.

There is no reliable mechanism, there is not even an unreliable mechanism for coordinating something as basic as the definition of programs.

There are too many committees that deal with children and families. The complexity of Federal programs for children and families makes Rube Goldberg look like a rank amateur.

Let me elaborate. As part of the work with the IEL Policy Exchange, we have taken a close look at the way congressional committees relate or, too often, don't relate to one another. We examined all programs for children and families with funding levels of \$100 million or more. In all, we studied 76 programs that account for about \$343 billion in Federal funding each year or \$228 billion, if you exclude the dependent tax exemption.

Now, the chart before you will, in a minute, show the chaotic, spaghetti-like web of connections between House and Senate committees and subcommittees that are primarily responsible for programs affecting children and families. The heads are full committees and the arms, legs and torsos are the subcommittees. Even on this overly simplified version, there are 10 different committees and 11 different House-Senate connections for income programs as you see before you.

There are eight different committees and 10 different House-Senate connections for social service programs. There are seven different committees and seven different House-Senate connections for seven education and training programs. There are four different committees and two different House-Senate connections for housing programs and there are three different committees and two different House-Senate connections for nutrition programs.

Now, this is also in Appendix A of the materials that we have given you. We have replicated these pictures.

Mr. DREIER. That looks very similar to the spaghetti they were serving upstairs in the dining room.

Ms. DUNKLE. Did you eat it?

Mr. DREIER. No.

Ms. DUNKLE. As confusing as this network is, it is important to recognize that it really, dramatically underestimates the complexity of the relationships. For example, it does not include the Appropriations and Budget Committee which would add four committees and 12 subcommittees at a minimum, legislation, oversight committees, subcommittees with authority over programs of less than \$100 million or any of the executive branch agencies.

Responsibility for the 76 major programs, all of which deal with different lives of the same people, are handled by a total of 19 committees, 33 subcommittees, not to mention 10 executive branch departments plus the Office of Personnel Management, 25 assistant secretary level agencies within the Department, and in all, you come close to 90 separate major Federal entities that deal with programs affecting essentially the same children and families.

Clearly, this large number of committees with no organizational way to coordinate legislative provisions makes it virtually impossible for the Congress to develop coordinated policies for children and families. This congressional complexity and fragmentation cloned in the executive branch and then cloned again at the State and local level is not denied. It creates many a Maalox moment for State and local officials and for children and families.

Indeed, we found that they are far ahead of their Federal counterparts in realizing that, to be effective, services must address the needs of whole families, whole people, and not just the health, education, social services, employment, income, nutrition, or housing slice.

If Humpty Dumpty is real families with interrelated needs, then States are all the king's horses and all the king's men who are trying to but cannot quite succeed in putting Humpty Dumpty back together again.

When you look at the States, what States are doing, they are doing a valiant effort of trying to put back the crazy quilt programs. In your State, we took a look—and in my testimony you

will see a quick summary for all the States of Members of this committee. It was extraordinarily easy to come up with a valid example for every single State represented on this committee plus the leadership. In your State, for example, there is the New Beginnings Program in San Diego, there is the Healthy Start Program statewide and a number of other initiatives.

What can be done to deal with these issues from the point of view of congressional organization? I have three recommendations. First, leadership is needed from the leadership; second, Congress needs a structure to provide a focus on children and families; and third, Members and committees need better information about the consequences of legislation on children and families.

Right now, there is no structural substitute for leadership. There is no procedural surrogate for political will. But sensible structures that help Congress and the leadership set and stick to clear agendas can be an important tool for moving ahead and setting coherent policies for children and families.

I believe the most promising approach is for the leadership of the House and Senate to develop a coordinated children and families agenda for each session of Congress. It would be based on the vision that would most strengthen this country's children and families. It would be client focused, not committee or jurisdiction focused and not department focused. There are a lot more examples of this in my testimony.

Second, there needs to be a structure to provide a focus on children and families. It is hard for the Congress to have a policy focus without a complementary organizational focus. Congress needs a strong conscience with clout to keep the focus on children and families. This could come from the leadership as in my earlier proposal.

It could come from a Congressional Council on the Family as Congresswoman Schroeder spoke about. It could come from a new committee on human resources. It could come from a House subcommittee on children. But such a subcommittee would be a toothless tiger unless it had at least major oversight responsibility and some real clout.

It could come from oversight functions by the Budget and/or the Appropriations Committee. It could come from the Rockefeller Commission, or the National Commission on Children suggests a Joint Committee on Children and Families. And it could come in part by consolidating some subcommittees.

But at least you need a focus that works and that gets peoples' attention and that has some clout.

[The prepared statement of Ms. Dunkle is printed in the Appendix.]

Mr. DREIER. Thank you very much, Ms. Dunkle. It is very helpful testimony. I must say that our mutual friend, Mrs. Schroeder, has testified three times before this committee. She has carried this message loudly and clearly. It is one which is clearly of concern to all of us.

Mr. Allard.

Mr. ALLARD. I want to thank you for taking the time to testify before us. I agree, we have to limit the number of committees, look at their jurisdictions, the overlapping. Individuals like yourself who

come to this institution and try to figure out a way to have an accountable process where you know what is going to happen and you have some anticipation of how things are going to come down. I agree with that testimony.

I think, the committee will try to address some of the these things that you brought out. I appreciate your help. Your graphs, which I think were very helpful, put forward a real cogent point on the problem that we have with intertwining jurisdictions on the issues.

Thank you.

Mr. DREIER. Thank you very much. Thank you for returning to accommodate our schedule.

Next we will hear from Mr. Arthur Sackler who is representing the Mailers Council. Mr. Sackler, again, we will incorporate your statement in the record. We would appreciate it if you could summarize as briefly as possible as we have another hearing that is taking place in this room in just a few minutes.

STATEMENT OF ARTHUR SACKLER, MAILERS COUNCIL

Mr. SACKLER. Thank you, Mr. Chairman and good afternoon. We greatly appreciate your reconvening to take our testimony on this very important topic.

The Mailers Council is here today to support the continued existence of the House Post Office and Civil Service Committee. The Council is the Nation's business mailers, publishers, financial houses, banks, telephone companies, greeting cards, direct marketers, parcel shippers, anyone you can name is in this group and we are all supportive of the continued existence for this.

Let me say at the outset that we support the mission of this Joint Committee. We think that it is important for the Congress, like any other responsible institution, to periodically reexamine itself to see if the way it is structured serves its needs and, in this case, the Nation's needs.

It is not the case that reexamination always necessitates change. As I mentioned, we would like to see the House Post Office Committee continue in existence. Reexamination of that committee's jurisdiction work and results, we are confident, will confirm the wisdom of its continued existence. There are a variety of things that the committee does, as you have been told.

Chairman Clay was here, Ranking Member Myers was here. What the committee covers is an array of issues that are not sexy, but they are now, as they have always been, about the fundamental efficient operation of the Nation and the government that serves it.

Postal Service is perhaps the least known \$50 billion institution in the country. Its carriers and clerks serve every corner of America every day at roughly 110 million addresses. Nonetheless, virtually no one in the public at large knows how the institution operates, how decisions on matters such as postage rates are made, or who beyond the Postmaster General runs it.

The Service, while chartered by the Congress to function like a corporation, is not a corporation. It has no shareholders. Its Board of Governors is not a board of directors in a very important sense.

None of the governors can have a direct financial stake in the institution.

The Postal Rate Commission is designed to review rates and classes and certain limited other matters. Thus, there is no overarching check on the Service other than the Congress. The Congress must take the role of shareholders and directors with a personal stake. We believe the House Post Office and Civil Service Committee has traditionally served that purpose very well.

The proposal before you is to fold the functions of that committee into those of the Government Operations Committee and turn it into a Governmental Affairs Committee that would follow the model of the Senate. The model, however, in our view, does not easily transfer.

The Postal Service, by its very nature, is intensely local. The bulk of its operations, its 40,000 post offices and 700,000-plus workers is local. Most of its problems are local as well. Mail pickups, sorting deliveries, sales of stamps, business interactions with the system, all local. Personnel grievances, questions about integrating automation into a local operation, closing a Post Office, the recent tragedies that have confronted the system, are all local.

The nature of the House with more legislators and generally smaller jurisdictions intrinsically makes it better attuned to deal with local problems.

In short, what is right for the Senate is not necessarily right for the House. There is both room for and the need for a standing committee in the House. If the House follows the Senate, in this case, we are convinced that the ability of the House to act as a check on the activities of the postal system would be eroded.

As you may know, current Postmaster General Marvin Runyon has been able to make progress in one year at USPS that is nothing short of revolutionary. His restructuring and cost containment program have thus far been dramatic successes. Nonetheless, he won't always be Postmaster General.

The institution, even under him, is not without its problems. The future confronts the postal system with a major challenge. Right now, the Postal Service's market share is under direct assault from faxes, E-mail, telemarketing, cable television, private hard copy distribution services, not to mention traditional carriers like Fed Ex and UPS and the new interactive electronic superhighway yet to come on stream.

The market share of its first class message stream, which is the most important one for it, bills, financial statements, business correspondence and more could diminish drastically over the next decade.

Legislative change to permit the Postal Service to respond efficiently and swiftly may become imperative. While obviously not impossible to legislate from a subcommittee position, it is clear that speed, expertise and resources all would be affected adversely without a standing committee.

To reshape the system in a way that better serves the public interest in the future requires commitment and attention over a period of time that can only come, in our view, with a standing committee that can spend a lot of time deliberating and reviewing what the postal system needs and what its problems are.

For these reasons, capacity for very extensive oversight and legislating is necessary in our view again. It simply cannot be done in the way it should be with the more limited resources and a perpetual vying for attention with the huge array of issues before the full committee.

This contrasts with the Senate which, by its nature, requires Senators to address that kind of broad array of issues at all times.

Finally, the Post Office and Civil Service Committee, like other committees, has been criticized for the relationships it has developed with the narrow interests that come before it. The council could be said to be one of those interests. In part, the notion of narrowness is dispelled by the very breadth of this council. We have a list of who is in it attached to my statement.

More importantly, notwithstanding the relationship we have with the committee, it has reviewed issues in a balanced and independent way, arriving at judgements in the manner it deems best. Just in this past year, there have been outcomes reached despite our concerns that the council views is quite problematic in a number of respects. The committee made judgements of what serves the public interest in ways that did not, of course, always agree with ours.

Therefore, the council suggests that this committee should remain in existence for all the reasons we have discussed. We respectfully urge that you decline the recommendation to eliminate the House Post Office and Civil Service Committee.

[The prepared statement of Mr. Sackler is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Sackler. As you have said, we have had Mr. Clay before our committee and several other of our colleagues who share your view. We certainly will be taking that into consideration as we proceed with this issue.

Mr. Allard.

Mr. ALLARD. Thank you for testifying before the committee. Do you believe that we need to reduce the number of committees and some of the overlapping jurisdictions we heard about from the previous witness?

Mr. SACKLER. We have not studied the overall scheme in the way that some of the other witnesses who have come before you have nor in the way that you have. I suspect that there may be ways to do that.

The only expertise that I have to offer the committee is with respect to this one committee that we spend a great deal of time working with and which we have become convinced, even though they don't always agree with us, do finally understand the system and what it needs and the kind of oversight and the effective supervision that it needs.

Mr. ALLARD. In effect, they are the board of directors with the Congress.

Mr. SACKLER. If you take the analogy out to its end, the shareholders of this institution are the citizens of the United States. Obviously, the Members of Congress represent those shareholders. The committee, in that sense, is a board of directors elected out of the body of shareholder representatives at large.

Mr. ALLARD. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. DREIER. I have never quite thought of us as board members overseeing the Post Office. That is an interesting perspective.

Mr. Emerson?

Mr. EMERSON. No questions.

Mr. DREIER. Thank you. I appreciate your accommodating the exigencies of our schedule. Your testimony will certainly be taken into consideration as we proceed with our activities. Thank you.

Mr. DREIER. Our final panel for this set of hearings will be Mr. Gerald Leape of Greenpeace. Again, we apologize for the scheduling constraints. We appreciate your coming back. We have another hearing that is scheduled to begin in this room in just a very few minutes.

STATEMENTS OF GERALD B. LEAPE, LEGISLATIVE DIRECTOR, OCEAN ECOLOGY, GREENPEACE, ON BEHALF OF THE MARINE FISH CONSERVATION NETWORK; KAREN STRICKLER, EXECUTIVE DIRECTOR, ENDANGERED SPECIES COALITION; CRAIG VAN NOTE, EXECUTIVE VICE PRESIDENT, MONITOR, THE CONSERVATION, ENVIRONMENTAL AND ANIMAL WELFARE CONSORTIUM; AND ANDREW PALMER, CHIEF POLITICAL DIRECTOR, AMERICAN OCEANS CAMPAIGN, ON BEHALF OF THE COAST ALLIANCE

STATEMENT OF GERALD B. LEAPE

Mr. LEAPE. The three witnesses to follow me are Andrew Palmer on my left, Karen Strickler on my right, and Craig Van Note and they will all introduce the networks and coalitions they are here to speak for. A fourth could not come back. Her name is Susanne Unicello and she was here to speak on behalf of the Conservation and Fishing Community Negotiating Group on the Marine Mammal Protection Act reauthorization. I would like to ask that her statement be included in the record.

Mr. DREIER. Without objection, it will be included in the record. [The prepared statement of Ms. Unicello is printed in the Appendix.]

Mr. LEAPE. Mr. Chairman, my name is Gerald Leape and I am the Legislative Director for Ocean Ecology for Greenpeace. I am grateful for the opportunity on behalf of Greenpeace and the Marine Fish Conservation Network, to appear before you today to give input to your plan to restructure the Congress to reduce costs.

The Marine Fish Conservation Network consists of 25 conservation groups, commercial and recreational fishing groups who have come together around a primary objective of making conservation the primary objective in U.S. fisheries management. The vehicle for achieving our goals is the reauthorization of the Fisher Conservation and Management Act of 1976. The Marine Fish Conservation Network is lead by a steering committee composed of representatives of the following organizations: Greenpeace, Center for Marine Conservation, World Wildlife Fund, the National Audobon Society and the National Coalition for Marine Conservation. These groups have made reauthorization of the Fishery Conservation and Management Act a top priority.

Since our work in the House of Representatives is solely with the Merchant Marine and Fisheries Committee, I would like to focus on the recommendation by some that your commission dissolve the Merchant Marine and Fisheries Committee and move their issues to Natural Resources and Public Works and Transportation. We are strongly opposed to the idea for a number of very important reasons that I will detail below.

Our fisheries are in a state of crisis. With limited exceptions, our fish catches around the country are declining. Without strong effective reforms in fisheries management, fish stocks will continue to decline at a more precipitous rate prompting an ever increasing reliance on imports of fish caught by foreign fleets whose catches are suffering similar declines.

In addition, the ramifications of declining fish populations on the rest of the marine ecosystem are beginning to come to light. Many marine mammal populations are declining in numbers and their young are reduced in size because of their reliance on these declining fish stocks for food. Before we suffer from a broad ecosystem collapse, we must answer the tough questions.

The only committee with the experienced staff, the dedicated chairman and the Members for whom a viable fishing industry is critical is the Merchant Marine and Fisheries Committee. They are the only committee that is prepared to answer the difficult questions, propose the needed reforms to make our fishing industry sustainable and the maintain viable fish populations.

In addition, they are one of the most productive committees in the House and have been solely responsible for most of the progress we have made on environmental issues related to the marine environment. The MM&F Committee, under the leadership of the late Representative Walter Jones and the current chair, Representative Gerry E. Studds, have utilized their committee's authorization to begin to establish an integrated ocean policy. These efforts, based on cooperation between the Members, has built a professional staff that knows how to get things done. Dissolving this committee would set this country back two decades in its efforts to be a world leader in protecting the marine environment from detrimental human impact.

On fisheries, the MM&F Committee saw the need to establish a management system for our U.S. commercial fishing fleet and passed the original Fishery Conservation and Management Act in 1976. By also being the home to the Marine Mammal Protection Act and the Endangered Species Act, the committee is able to ensure that these laws are acting in tandem to complement each other and not at cross purposes. While feeling ownership for their original efforts, they have also recognized that fisheries management is an evolving process and that fundamental reform of current management practices might be necessary.

In addition, it has come to our attention that a proposal has been put forth to change the name of the Merchant Marine and Fisheries Committee to the Marine Affairs and Environmental Policy Committee. Being that this committee has authority for the National Environmental Policy Act, the Marine Mammal Protection Act, the Fishery Conservation and Management Act of 1976, the Coastal Zone Management Act and the National Marine Sanctuar-

ies Act and the Endangered Species Act, we think it only fitting that this proposal be approved.

From an organizational point of view, Greenpeace is strongly opposed to any plan to dissolve the Merchant Marine and Fisheries Committee. Over the last two decades, Greenpeace has worked with the Merchant Marine and Fisheries Committee on a myriad of issues; saving Antarctica, eliminating large-scale driftnets, reducing dolphin deaths in tuna nets, commercial fisheries management reform and saving the whales from the commercial harpoon. With their leadership on these important issues, we have made substantial progress towards conservation on many of these areas. On many of these issues, the committee has played a critical role in that coming about.

The Merchant Marine and Fisheries Committee was the most productive committee in the House during the 102d Congress and with action pending before this committee on the Endangered Species Act, the Marine Mammal Protection Act, and the Fishery Conservation and Management Act the rest of the 103d Congress promises to be just as busy. Even Ornstein and Mann acknowledge that "the MM&F Committee has been a much more wide ranging panel under Chairman Studts than it was under his predecessors."

This varied slate of statutes should be enough to convince you that this is far from a single constituency committee. With an EEZ that is double our Nation's land mass and half of our population living within an hour's drive of the coast, it is critical to keep these issues under the jurisdiction of a single committee. Our ocean policy is not yet visionary but we are making progress toward that goal.

To get there, it will take members for whom this is a priority and a staff that understands the problems and how to get to solutions. Merchant Marine and Fisheries Committee has that representation and that staff. The two committees that would take on MM&F issues have other priorities and do not understand the gravity of the crisis of our oceans or have the trained staff to address the issues.

However, we understand that another proposal put before you is to reduce the number of subcommittees from five to four per committee with certain committees such as appropriations and others being exempt. We believe that this proposal has some merit as we in the nongovernmental organization community have experienced great frustration in urging Members of Congress to fully participate in each of their assigned subcommittees.

In closing, I, on behalf of the Marine Fish Conservation Network, strongly urge you to reject the proposal to dissolve the Merchant Marine and Fisheries Committee. The institutional experience, the trained staff, the Members for whom oceans are a priority and the coordination of these issues in one committee are essential if we are to continue to make progress in national and international efforts to save our oceans.

Thank you again for the opportunity to testify and I would be happy to answer any questions.

Mr. DREIER. Thank you. If your three colleagues could summarize briefly, we would appreciate that, too.

[The prepared statement of Mr. Leape is printed in the Appendix.]

STATEMENT OF KAREN STRICKLAND

Ms. STRICKLAND. I am Karen Strickland, the Executive Director of the Endangered Species Coalition which is an ever-growing coalition currently representing 78 groups from the environmental arena and industry and we also represent over 5 million individual members who are working to educate people about the importance of the Endangered Species Act.

The Endangered Species Coalition very simply opposes the abolition of the Merchant Marine and Fisheries Committee. From the time when John Dingell chaired the committee, the Endangered Species Act has been reauthorized three times. It is our feeling that the committee and its staff have acquired an expertise on this issue that ensures the integrity of the Endangered Species Act which is one of our country's most important environmental laws.

The Endangered Species Act really is the cornerstone of the United States commitment to protecting biodiversity and endangered species. It was first enacted in 1973. It provides a flexible framework for resolving conflicts, frameworks between development proposals and the survival of species.

The Endangered Species Act is currently up for its fourth reauthorization. So this is a critical time for this landmark legislation that has really acted as a model for the entire world.

Our country needs the Merchant Marine and Fisheries Committee because they understand the significance of this law as it relates to the environment and to long-term economic stability for the country.

The salmon industry provides one example of an industry that has joined our coalition. In 1988, they provided 62,000 jobs and \$1.25 billion in revenue, personal income to the California and Pacific Northwest.

Since that time, the decline in that industry has been staggering. The salmon industry would benefit from the Merchant Marine and Fisheries Committee's expertise, both in commercial fishing and in the Endangered Species Act, that unique combination.

Regarding the environment, very quickly, 500 plants and animals have become extinct since the beginning of United States history. Gone forever are things like the Atlantic gray whale, the California grizzly and Eastern cougar. Seven hundred plants and animals are listed as in danger of extinction and perhaps as many as 9,000 are at risk according to the President's Council on Environmental Quality. Some of the success stories of the Endangered Species Act include the California Condor, the black footed ferret, the brown pelican and the bald eagle.

Species are obviously indicators of ecological health and with each species that we lose, we snuff out the possibility for treatments for cures of diseases.

Abolition of the Merchant Marine and Fisheries Committee would be counterproductive and we believe it would invite legislative gridlock as people who lack the unique experience of the Mer-

chant Marine and Fisheries Committee attempt to deal with this very complex and controversial issue.

We think that abolition of this committee would bring the reauthorization of the Endangered Species Act to a halt. We believe that maintaining this committee would promote efficiency and protect our national heritage. We urge that you please keep the Merchant Marine and Fishery Committee intact.

Mr. DREIER. Thank you very much. We certainly appreciate your input.

[The prepared statement of Ms. Strickland is printed in the Appendix.]

Mr. DREIER. Mr. Van Note.

STATEMENT OF CRAIG VAN NOTE

Mr. VAN NOTE. I am Craig Van Note. I am Executive Vice President of Monitor which is a coalition of conservation, environmental and animal welfare groups. Today I am testifying on behalf of the 18 groups listed in my testimony, plus Greenpeace and the American Society for the Prevention of Cruelty to Animals. Together, we have more than 4 million members in the United States.

I came here to testify against this proposal to dissolve the Merchant Marine and Fisheries Committee. Our members will speak out very forcefully against this proposal. We believe that Mr. Ornstein and Mr. Mann have totally underestimated the importance of this committee. In fact, they seem to be reflecting some of the so-called conventional wisdom that has been around Congress for a couple of decades that the Merchant Marine and Fisheries Committee is some kind of a backwater, when in fact, at least for the last decade, it has been the primary leading committee on Capitol Hill in environmental protection.

It has led the battles on the two landmark laws we have on the books in this country, the Marine Mammal Protection Act and Endangered Species Act, two laws which have been the blueprints for dozens of other laws, not only here but around the world, including the Convention on International Trade and Endangered Species, the Biodiversity Convention which is just getting off the ground, the Antarctic Treaty, and all these other conventions that we have been developing to address the vital environmental problems that we are facing on this planet.

We believe that if this committee and the Congress itself fully examines the role that the Merchant Marine And Fisheries Committee has been taking in recent years, they will find that it is an invaluable resource. It should not be broken up and its conservation activities put into the Natural Resources Committee, which is primarily a land-oriented committee dealing with land and water resources. It has no expertise in wildlife conversation and in global conservation issues.

We strongly urge you to reexamine this proposal. I would urge you to ask Mr. Mann and Mr. Ornstein to go back to the drawing board and look at the importance of this committee in terms of what it is doing now rather than on their conventional wisdom of 10 or 20 years ago.

Mr. DREIER. Thank you very much. Yes, sir.

[The prepared statement of Mr. Van Note is printed in the Appendix.]

STATEMENT OF ANDREW PALMER

Mr. PALMER. My name is Andrew Palmer. I am the Chief Political Director of the American Oceans Campaign. Today I am speaking on behalf of the Coast Alliance. I am Vice Chair of the Coast Alliance. The Coast Alliance was formed in 1979 for the purposes of promoting and educating the public about the reauthorization of the Coastal Zone Management Act.

It has stayed in existence since then through subsequent reauthorizations and works presently on issues such as the coastal barriers resources system and the Federal Flood Insurance Program. We have 35 members on our board from most of the national groups and a number of regional and local groups.

In addition, we work with networks of local groups sometimes numbering over 100 who are concerned about coastal issues. I will truncate most of my testimony because you have heard a lot of what my colleagues have said.

Let me say that in the 1980s, we very often found ourselves up against some policies of the administrations of those times which sought to, we felt, undermine these important coastal programs.

There was no question in our minds that the reason that we were successful and that Congress was successful was two reasons, one was we had bipartisan support. Both sides of the aisle felt these were misdirected efforts to undercut these programs. And secondly, it was the leadership of the House Merchant Marine Committee which really carried the battle in those cases.

I know that history is important, but you have a task before you. You have been charged to look at the organization of Congress. Just because of a good performance in the past does not necessarily justify continuance.

However, in this case, I think you should carefully look at the rumored proposal about the abolishment of this committee and see if in fact that proposal would not be contrary to what you are trying to do to improve things.

The committee record in the last two Congresses is excellent. Seventy-seven of the bills that the committee passed out which became law are related to marine and coastal protection.

The staff, as you have heard, and it is widely agreed, is an excellent staff of high quality. The primary membership of the committee is Members from coastal communities, coastal States and States with important waterways. They have been able to become expert in some rather complex issues at times and we feel this has facilitated passage of much of this legislation.

As you know, the committee has recently passed leadership on to Chairman Studds. We have worked with him for a long time. While we don't want to speak on his behalf, we are convinced that he is as concerned as you are in breaking the gridlock which the public perceives is one of the problems with Congress.

We have also witnessed a public explosion of support for protecting our coastal and marine environments. We would think that any action by the Congress which would abolish the one committee

which really has carried the torch for the coastal environment in this Congress would be sending a bad signal. We urge you not to take this step.

[The prepared statement of Mr. Palmer is printed in the Appendix.]

Mr. DREIER. Thank you very much, Mr. Palmer.

Let me thank all of you again for understanding the problems with our schedule and coming back this afternoon. I think we have heard a similar message from all four of you and actually from three other panels today. Your message is loud and clear.

You should know that there are many Members of the committee, including the chairman, who I saw 45 minutes ago, who gave me about the same message the four of you have just delivered here today.

Let me at this time turn to my friend, Mr. Allard.

Mr. ALLARD. I would like to thank you for your testimony. I don't have any questions. If the time on our schedule was not so pushed, I might have a few for you.

Thank you.

Mr. DREIER. Mr. Emerson.

Mr. EMERSON. I am curious, I hope you won't consider this question facetious. We have had several hundred witnesses appear before this committee over the course of the last six months. Many of them have expressed their concern about the influence of special interests on the Congress and the committees of the Congress and have urged us in our recommendations for reforming Congress to make sure that Congress is properly insulated from special interests.

Do you consider yourselves to be special interests?

Mr. LEAPE. I personally don't. I mean, we have 2 million supporters in the United States. I think that one way that the Merchant Marine and Fisheries Committee insulates itself from special interests is by having a high degree of professional expertise where they can take input, but then they make the decisions on their own.

You have a broad array of representation from the coast, so what you get out and the way they operate is largely by consensus and coming to agreement. So that way, I think they have established mechanisms on their own to insulate themselves from that.

Mr. EMERSON. Frankly, I don't know anyone who is not a member of some special interest group. That is why I get a little amused when they tell us we should insulate ourselves from special interests. We did that. We insulate ourselves from the world.

Ms. STRICKLAND. For the part of the Endangered Species Coalition, we don't expect to get a rubber stamp debate on the Endangered Species Act. We expect there to be a lot of debate, but we believe that the expertise and the knowledge that this committee has gathered over the course of time is going to help us to come out with the best law that we can possibly come out with for everybody involved.

There are lots of sides to this debate. It is very complex and very controversial. We just need the knowledge and expertise of a committee like the Merchant Marine and Fisheries Committee.

Mr. EMERSON. There has been more pressure to save the Merchant Marine Committee than any other committee of the Congress with the possible exception of the Appropriations Committee.

I think the interest of those who have a strong concern for the preservation of the Merchant Marine Committee has been well represented. Thank you.

Mr. DREIER. Thank you very much, Mr. Emerson.

Thank you all very much. We appreciate your being here. Thanks for your testimony. As I said, your statements will all appear in the record.

We are going to take a two-minute recess at this point. We appreciate the fact that our witnesses are here and we will reconvene momentarily.

[Whereupon, at 1:35 p.m., the Joint Committee recessed, to reconvene later that same day.]

The committee met, pursuant to call, at 3 p.m., in room HC-5, The Capitol, Senator David L. Boren (chairman of the committee) presiding.

Chairman BOREN. Our next witness today is Senator Byron Dorgan from the State of North Dakota, elected to the Senate in 1992. He is a former Member of Congress serving in the at-large position from North Dakota from 1981 to 1992. His committee assignments include Commerce, Science and Transportation, Select Committee on Indian Affairs and the Joint Economic Committee.

I would say, not just because he is sitting here, but because it is true, that he has certainly stepped into his position in the Senate with no time necessary for learning. His experience as he came over from the House and his familiarity with the issues has enabled him to really hit the ground running and to be an important voice on a whole range of issues that have been before us since the new Congress began. So we are very pleased to welcome you as a witness before our committee.

**STATEMENT OF THE HON. BYRON L. DORGAN, A U.S. SENATOR
FROM THE STATE OF NORTH DAKOTA**

Senator DORGAN. Thank you, Mr. Chairman. It is a pleasure to be here. I must say that I have watched some of these deliberations on C-SPAN and I would guess the Lord will reward, in some final resting place, those of you who have had to sit through all of these hearings and hear from so many witnesses with so many different ideas about not only what is wrong, but how to make it right. I admire the tenacity of this group and wish you well in your deliberations.

Chairman BOREN. Thank you.

Senator DORGAN. I would like to say that, to start off with, I don't think Congress works very well. I think everybody agrees and understands that. I don't happen to believe, however, that the bulk of this country's problems, the bulk of the problems we now face are because Congress does not work well. I think it is because of a basic conflict in this country between what people want and what people are willing to pay for.

Those mixed signals create an intractable problem and this country has not confronted that problem very well for well over a decade. If the institution does not work well, then what do we do to fix it.

It seems to me that, first, those who framed this type of government did not frame the institution of Congress in a manner to allow it to be efficient. They didn't even want it to be very efficient. They wanted legislation to have to move through a virtual obstacle course in order to achieve that final result of a bill, that it goes through the Congress and is signed by the President.

It was never anyone's intent to create a system that was efficient, that worked like a Swiss watch and that you could move legislation through on a whim. But nonetheless, we all admit we have been inflicted with gridlock in a special kind of institutional trouble that we must deal with.

So you have been confronting this question, "What is the trouble and how would one fix it?" I will be mercifully brief. I will mention several things. First, you indicated in your remarks something that I think is critically important. It seems to me that in order for Congress to retain or develop additional credibility out there in the country, we have to say to the American people, whatever we do to you, we will do to us.

Senator DORGAN. Anything we do to impose obligations on the American people, we will subject the Congress to those same obligations so that we understand and will live under those obligations. And I know in many cases we have imposed obligations, not necessarily identical, but concurrent obligations because of the separation of the branches of government, but we must, in every instance, make certain that when we require others in this country to comply with certain things, we say we not only understand what we are going to do to you, but we will do the same thing to us. Now, that must be our goal as we move down the road and decide how we in Congress act and behave.

Second, you have heard ad nauseam about the explosion of committees and subcommittees, most especially subcommittees in the U.S. Congress. That, in itself, does not mean very much, except most people understand when you divide up a piece of pie, instead of five pieces to 10 pieces, and into 100 pieces and 200 pieces, you fraction it in such small little slivers that you don't have much left in any one place and you don't, therefore, achieve very much by looking at one small slice.

That is true of the committee structure and especially the subcommittee structure here in the Congress. We have so fragmented jurisdiction that you give everybody a little bit of the pie and everybody is fighting over which piece is theirs. Instead of debating in the big debates about public policy, we are employed in these small debates about whose piece belongs to whom and that is not productive, that is destructive of the ultimate goal of getting things done and getting things through the Congress.

Let me finally say on Floor procedure, I think part of our gridlock is that we have a system that not only protects the right of the Minority but that increasingly does allow the Minority to prevent the Majority from getting the business done, and I do believe we have to take a look at this issue of cloture. It has been used not infrequently in years passed.

In decades past, there were times we did not have one filibuster in a year, sometimes less than five, most often an average of about five over many, many decades. Now it is routine to use some modified form of a filibuster to thwart the will of the majority, and I believe that any number of recommendations, some of which have been offered by the Majority Leader, would represent an appropriate response to those areas.

I am submitting an entire testimony and hope you would put it in your record in its entirety, and I would simply like to say those

three areas are of great concern to me. If you deal with the explosion of subcommittees and bring them back to some more reasonable area, if you deal with this requirement that Congress live under every law and every regulation it imposes on the American people, and if we can find a way to end what I think is a destructive practice of using filibusters or filibuster techniques in a routine way to thwart the will of the Congress then I think you will have achieved something meaningful and improved the method by which this Congress operates.

Mr. Chairman, thank you very much.

Chairman BOREN. Thank you very much. I have to say I enthusiastically agree with all three points that you have made.

Living under the laws that we pass, one of the things we determined as we were having this retreat over the weekend is that not only do we not do that in all cases but also the House and the Senate are approaching this matter in different ways.

For example, in terms of the labor laws in terms of the civil rights laws, we have set up two separate bodies, one for the House and one for the Senate to hear appeals as to whether or not we, as an institution or individual Members, have violated these rules. The House has not yet provided any kind of judicial review. For example, the Senate in regard to I believe it is civil rights legislation, maybe it is labor law as well, provides for appeal from our own internal commission to the court of appeals. It does provide for some judicial review.

I wonder on these matters that I have just raised, do you think it would be a good thing for us to attempt to have one commission inside Congress that would hear appeals from both the House and the Senate rather than having a duplication; and do you think, and this I know has been a matter of some debate with our colleagues, do you think that some judicial review, perhaps at the appeals court level, as we now have—they don't have trial de novo, but they do have the ability to determine if there has been an egregious misapplication of the rules to the facts by the internal commission here; whether or not there should be some uniform judicial review as a matter of practice?

Senator DORGAN. I would say yes in both cases. There is not much question that with respect to the kinds of things we do to operate the Congress—employment practices, working conditions, a whole range of things like that—there is no reason for us to duplicate the efforts of the House and the Senate. We should do things together in a manner that reflects the same kind of imposition of requirements that we are imposing on the rest of the country.

Let me again emphasize, I know some say we subject ourselves to none of what we now require of the rest of the country. That is not the case. But what has happened is because of the legislative branch not wanting to subject themselves to enforcement jurisdiction of the executive branch, we have set up parallel, in many cases, parallel devices to effect the same end, but we have not done that in all cases and even those where we have set up parallel devices, as the Chairman stated, they often are not conclusive, they are not as comprehensive as what we have imposed on the rest of the country.

So I think it would establish much greater credibility in the country if we would do this, but, secondly, if we do it together, the House and the Senate, it would be much more efficient.

Chairman BOREN. Right. You talked about subcommittees, and this is something I have talked about a lot myself, and I have been very concerned because we do fracture our time so much, and it seems to me the only committee, full committee I have ever had an opportunity to Chair is the Intelligence Committee, and one of the responsibilities I took on was to do away with all the committees that had subcommittees, and we simply did away with them.

I found if we had, say, 10 hours a week, and that committee's work is very rigorous, it takes a lot of time, if you had 10 or 12 hours a week to devote to the committee, then instead of having six or seven subcommittees each with separate agendas, it made more sense to set some priorities in the full committee, because the subcommittee number six might not have any of the top three or four most important items, yet if you gave a sixth of the time to them, you would not get the most important things covered.

So we were able, I think, to manage our time better. Members were able to put things on the agenda that were truly important to them and we made those decisions as a group rather than being fragmented into subcommittees, and we were also able to use staff resources better. Some suggested if we had fewer subcommittees, we could probably get along with fewer committee staff and be more efficient at the same time.

Now, let me ask, one of the things we have considered, the poll that came back from Members indicated that a very large majority, 87 percent of the House Members that returned their questionnaires, said they thought every House Member should serve on only two full committees and two subcommittees. On the Senate side, the polling data indicated over 75 percent favored limiting us to serve on six committees or subcommittees total. So if you served on two major committees and, let's say, a B committee or a C committee, then you could not have over three subcommittees total that you could serve on.

If we were to say to every committee, except Appropriations, where they do have to have approximately a dozen subcommittees because they are broken down by budget function, but if we were to say to all the other committees, Commerce, Agriculture, Financials, whatever it happens to be, no more than three subcommittees in your committee, do you think a rule like that would be a good rule?

And by the way, if we did that, we would more than cut in half all the subcommittees. There are over 200 subcommittees now. That would reduce it to over 100 in both Houses combined. If we did that, do you think it would be better to do it by generic rule of saying no more than three subcommittees or do you think it would be better to say—and then, say, for example, the Agriculture Committee, you have a rule; you can have three subcommittees maximum. You don't have to have any, but if you want, you can have three but no more than three. Then the Agriculture Committee would sit down and decide within the Agriculture Committee how to set up those three committees and what the jurisdictions would be.

Or do you think we would be better from this committee to say, here are the subcommittees we think should exist and name them and the various standing committees? And some of them might have two, some might have three and so on, but still roughly cut the number in half? Which do you think would be the better approach?

Senator DORGAN. I feel strongly a generic rule would, A, make much more sense. The committees themselves are better able to determine the areas of major active interest than this Committee on Organization. But there ought to be some limit. That would be a constructive step forward and I think a generic rule would be helpful.

I don't know of the Chairman has read any C. Northcote Parkinson, but when I was in graduate school, I read most of what he wrote, and he discussed the role of organization, particularly governmental organization, and he described what I think is the case with some subcommittees.

We have so many subcommittees that it does not matter whether they have anything to do. They will grow. The nature of the organization is to grow and expand and grow some more. He pointed out if you took 1,000 workers, put them in a building, gave them no function to perform, say you are now an organization, you have this building, you all have desks, go to work, but they make no product, they have no mission, within three months they would be working overtime.

His point is it is the nature of the organization to work, to grow, to expand. That is exactly what has happened to the subcommittees in the U.S. Congress.

Chairman BOREN. Right.

Senator DORGAN. None of them will come to this organization and say, you know something, we have outlived our usefulness; we simply sit down there and turn the lights on and have nothing to do. I would venture to guess that out of a couple hundred subcommittees, none have come to say that. They not only have plenty to do, they are probably all working a little overtime because they don't know how on earth they will get their work done, and yet some have far outlived their usefulness.

What you propose I think makes a lot of sense, and I would suggest a generic rule is the best way to deal with that.

Chairman BOREN. Well, thank you very much. And what you have said about the growth, it reminds me of what most of our subcommittees are doing, and what usually happens is a committee Chair gives a Member a subcommittee, in essence because that is something that can be handed out, and leaders, those running for leadership, promise subcommittees and staff. That is something they can do in order to get support.

And Members do have these empires, and because they are there, the subcommittees have to do something. The staff has to justify itself, so you have hearings. You get some bills introduced. And I am convinced this also increases our own workload in our personal offices, because once hearings are held in a subcommittee that should not exist on a bill that should not have been introduced, that generates mail. It generates concern from citizens that might be impacted by this unwise move. And before you know it, it

is even increasing the workload of your personal staff and the need to have a larger personal staff because of unnecessary work generated by subcommittees that should not exist.

Senator DORGAN. Let me leave you with one more bit of wisdom from C. Northcote Parkinson. He says in war there is an inverse relationship between the number of generals on one side and the number of enemy killed on the other. That is an inverse relationship. That describes the theory of organization and describes at least some of what you are trying to grapple with.

Chairman BOREN. That is a very good point and I will let that stand as the last word because it has so much wisdom to it and we appreciate your coming. We hope we are going to give you something in these areas for you to vote on and we will encourage your active participation in it when we come with a report of this committee.

Senator CRAIG. As my colleague leaves, Mr. Chairman, let me say I agree with most of what he has said, but he has never had the privilege of serving in the Minority, so he can be a strong advocate for limiting cloture. I would like to put him in the other position and see his mind rapidly change.

Senator DORGAN. We hope not any time soon.

Chairman BOREN. I can tell we are going to move into this subject next as we talk here. Thank you very much, Senator Dorgan.

Our next witness is Senator Larry Craig, who just interjected that comment from the State of Idaho. Senator Craig has been in the Senate since 1990, and was a former Member of the House from 1981 to 1989. Is that correct?

Senator CRAIG. Yes.

Chairman BOREN. And his committee assignments consist of Agriculture, Energy and Natural Resources, Joint Economic Committee and the Special Committee on Aging.

And, again, as I said about Senator Dorgan, Senator Craig has brought his experience from the House with him as he has come to the Senate and, again, it has enabled him to plunge into all these issues without any time necessary to become informed about them.

We have had a chance to work together on a number of issues, including budgetary restraint and trying to get the deficit down, and I appreciate that opportunity to work with you. And we are very happy to welcome you as a witness before the committee today.

STATEMENT OF THE HON. LARRY CRAIG, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator CRAIG. Well, Mr. Chairman, thank you very much, and I meant it in a most sincere way to associate myself with some of those organizational remarks of my colleague, Senator Dorgan.

I would say as it relates to cloture, our Founding Fathers designed the Senate for a unique purpose, substantially different from the House, and the cloture rule or the ability to have the Minority to cause the Majority to come to attention is an extremely valuable and important tool in the makeup of the Senate itself.

Does it get overused on occasion? That may be the case. But clearly, I think it is important that a rule like that, because of what our Senate is intended to be, constitutionally different from the House, I think that rule remains very important.

And I say that because now, having served two-and-a-half years in a Minority in the Senate, having served 10 years Minority in the House, probably, to me, or to anyone who has served in the Minority in both bodies, it becomes very clear what our Founding Fathers intended, a much greater sense of equity as it relates to the power of the individual Senator compared with those of the House.

The House, intending to be an entirely different creature, and it is a rule like a cloture rule that substantiates what I think our Founding Fathers intended about that sense of equity, Minority-Majority, that is very important.

Let me speak briefly today about a couple of issues I think are fundamentally important, and ones you have worked closely on in the last couple of weeks, not as the Chairman of this committee but as a Chairman of another important committee, and with an issue that we have just finished on the Floor of the Senate, and I am talking about budgetary matters.

It is my guess, Mr. Chairman, no matter what we do as it relates to sizes and numbers of committees and the time allocated to the individual Senator, what we do or fail to do as it relates to the Federal budget and the spending of the largess of the public Treasury is going to be our success or our downfall. Clearly, by that, what I mean to imply is how the public perceives us, and therefore how the public reacts.

We become individually concerned about our own effectiveness inside the organizational structure of the United States Senate. That is one thing. But I think we have to be a great deal more concerned about how effective we are in governing a country and the tools which we use to govern the country, and the single most important tool is the Federal budget.

I say that in light of the obvious. And I think a very quick revelation comes to when you enter the United States Congress. You have an element of fiscal responsibility in your bones to realize after a very short period of time here that we really do not control the process; that the process has its own momentum, and we give lip service to it, but, in fact, the budget is a monster out of control, and the last decade has demonstrated that.

And you and I are very quickly pointing in a variety of directions for blame but we all have to recognize the blame comes full square on all of our shoulders and we all must bear it. The bottom line is we have not succeeded in any real marginal or major way in the control of the Federal budget, and I think that is, and that element alone, that causes us our greatest number of critics on the outside with the greatest amount of validity.

Within two years after I arrived in the U.S. House in 1983, even in a Republican administration, I have become a very outspoken advocate of a constitutional amendment requiring a Federal balanced budget. Why? Because I did believe then and do believe now the system is badly broken and we do not have the political will to fix it. We have lost that.

And the reason we have lost it is not because of our own well-meaning, it is because of the phenomenal pressures that the system collectively, over some two centuries now, has placed upon us and focused upon us. It becomes very difficult to say no, especially when your constituency knows that you don't have to say no if you really don't want to.

There is nothing out there that requires you to be responsible anymore, in that sense. And it is with that in mind, and of course having served at the State legislative level where that requirement is in place, and watching the wringing of hands of great academicians, oh, but Federal and State are two different systems, the environment in which the system operates is the same; the pressure on the individuals that operates the systems is largely the same, and, therefore, I am an advocate and do believe we ought to have that kind of requirement.

And then I believe all heck would break loose for a short period of time, and we in our wise and just way would sort it all out and bring some comfort from chaos to some form of substance, and out of it would come a balanced budget over a reasonable period of time. But I do believe that is a requirement.

When I say that, I remember just what we went through in the last couple of weeks, and what we went through, I thought, was an absolutely fascinating exercise. For if I had been on the outside listening in, I would have heard a very unique thing said. I would have heard a single Federal dollar talked about as the possibility of a cut, a freeze, or an increase, and in all instances my ear would have been correct.

Senators on the Floor of the United States Senate would have been saying that is a freeze, that is a cut, and that is an increase, all meaning the same thing, and that is as phony as we can get and we are phony in what we do, but we are most sincere about it.

Chairman BOREN. I have a cousin who said once if you are going to be a hypocrite, be sincere about it.

Senator CRAIG. Yes.

Some will say, Larry, you are being much too critical of the system in which you serve. No, I am not. I am very frustrated in the system in which I serve that those kinds of words are used to tell the American public what we are doing for them and to them and that is wrong.

Whether it was President Bill Clinton or President George Bush, they both did the same thing. When cuts became freezes and freezes became increases and none of the three meant the same and they all meant the same, depending on which area of the budget you were talking about, that is wrong, and this Congress well ought to change it.

And of course the reward to not changing it is that probably the American people ultimately will over an extended period of time, because history proves that if we fail to respond in the long term, the people will change their system because they are frustrated by it. I believe that ought to be corrected and how do we get there?

Well, a balanced budget item is one approach, a line item veto, I have always been for that. I am well beyond the days when we accuse the presidency of deficits or misspending and yet we know we give them no authority to help form a budget.

We love to use them as punching bags. We did it of Reagan, we did it of Bush, we will do it of Clinton. We most certainly did it of Carter when in fact only through the budget acts of the last couple of decades have we given them responsibility and authority in that area, but only to make a presentation, not to actually be directly involved in the formation.

So I think we have gone past that era in our history. I think they should participate in a limited way and I believe that to be one way of doing so. One approach I think helpful to use is the using of the current dollar baseline. We should become relevant. I don't think we should be looking backwards and arguing forwards, as we do when we use that approach toward budgeting.

I think in using current dollar baselines, we should use current service baselines. We should get real with what we deal with, and in doing that, spending increases are spending increases, and there is no fooling anyone about it. A cut is a cut. It is not a cut in growth or a cut in the rate of increase. It is not a freeze. It is not an increase. It is what it is, and, clearly, we have to demonstrate those types of things.

How do we get there with that? I have mentioned some approaches. Obviously, spending caps are another approach that can be used and I think have to be used and they have to be meaningful and then possibly the restoration of sequestration. There was a moment in time whether we liked it or not when Gramm-Rudman did work until we could not take the pressure any more and we broke it apart and began to push it around and it self-destructed within our own hands. And it is that concern that worries me a great deal. Truth in taxing and truth in spending has to be brought back.

Probably if we could just suspend for a period of time the authority to borrow, we would be forced to make decisions we never dreamed we would have to. But then again Jefferson was probably right in the end when he suggested that the ability to borrow was something we should never have granted our government. We should have forced them into the real world realities in going to the public if we really needed the resources or denying ourselves access to it if we knew the political pressures were too great to get there.

When I look at where we are currently in our spending as a rate of the gross domestic product and where I look at where other countries are, when they got into very deep trouble, whether it was Canada now working its way out, whether Mexico working its way out or Australia, and of course the great case of Italy, we seem to think we are exempt from that. And yet we rapidly move toward a very dangerous point in the percentage of consumption of the gross domestic product of this country for governmental needs and I do not believe we are exempt. I simply believe that we risk very, very dangerous times if we don't bring about these kinds of changes. In the end, it is probably heresy for me to suggest something that this committee will not, and I would probably argue that they should not, my guess is it will be a choice of the American people, and that is the question of term limitations.

How can I as an individual who has already served 12 and is into their thirteenth year of service even begin to talk about that kind

of thing? I look at the dynamics that it would change in the United States Congress if that were to occur in committee structures. Automatically we would see a great change. Everybody says, my goodness, what would happen to seniority? Small States likes yours and mine would lose seniority. You couldn't lose something that would not exist. Seniority is a product of the current system. You change the system and seniority automatically goes away or it has a way of changing or transforming itself into a new way of selecting Leadership and Chairmen and doing other kinds of things that ultimately you would have to get done to planning the system.

But the thing I think would be most valuable, when my colleague Senator Dorgan talked about living under the rules we put other people under, you have heard the old adage maybe we should go home every so often and live under the laws we pass upon our constituents. If you are good at what you do, and you are, Senator, and I hope I am as good at that, we can, by our own effort, largely consider that we will be here a fairly lengthy period of time. We can serve probably two or three terms, if we work hard, go home quite often, and listen to the home folk.

And in doing that largely for professional reasons and for family reasons and for future reasons, and I am talking retirement, we do what all people do. We think about the future and we plan for the future, and the systems around us we create to serve us for future needs.

And that is exactly what the Congress of the United States has done over the last 100 years but especially the last 50 years. They have assured that their life after will be most comfortable, but more important than that, they break most all of their ties with home. They sell their businesses, they come to Washington, and although they may go back to their States monthly, they really do become residents of the region and they become occupants of these halls on a nearly permanent basis.

I do not believe our Founding Fathers anticipated the existence of the full-time public servant. They really did believe in the citizen legislator, and it was from that that we constructed our system. So in that, I have always believed in term limitations. I am an advocate and will work toward it, but probably on the outside and not on the inside.

And I say so because if we, you and I, served for 12 years or some magic number, and I don't know what it is, the odds are that we would never view this as an end-all profession. We would maintain much stronger ties with home, we would probably not sell off our businesses, we would want to return home on a much more regular basis, and in doing that we would limit the size of the government in which we operated and in which we governed.

By the very nature of that, we would not be here as often. And for some reason I think that to be a bit of magic; that we would not have to spend your time trying to sort out how to do it better. The system would cause it to be better simply because we would not want to be here for the length of time that we were here.

Those are some of my thoughts. You have the balance of my comments for the record as it relates to dynamic economic modeling and sunsets and bureaucratic cloture commissions and all of that, that I do believe are valuable in the consideration of reform

in the system. But in the end, if we do not reform the budget and if we do not get the budget under control, Mr. Chairman, I firmly believe that all the other things we do will be of little to no value in the long-term because neither you nor I will be here to see their positive results.

[The prepared statement of Senator Craig is printed in the Appendix.]

Chairman BOREN. Senator Craig, thank you very much and I find myself in agreement with much of what you said.

As you know, I have been a long time advocate of a budget balancing amendment and also a line item veto. I had the privilege to serve as Governor of my State before I came here and I used the line item veto I believe more than any other Governor in the history of the State up to that time. And also I saw how valuable it was to operate under a budget balancing amendment.

As you say, it is hard to say no when people know you don't have to say no. It is much easier to say no when people understand you have to say no.

And very often people come to us not with things that are not meritorious, most of the things people want to have done at the State level—for example, they want a highway improved or a bridge built or more special education classes for children who need it, they want more things that are basically beneficial, as we would evaluate them—but the problem is if you don't have the money there to pay for it, you are simply in the long-run mortgaging your future if you say yes to everything, and so there have to be constraints.

And when you are in a position to say, as I often had to say as Governor, I am very sympathetic to what you want to do but we have allocated all the money. We have no more money in the budget, so you must either come back to me and tell me which tax you want to propose raising. If the people really want this badly, they should be willing to pay for it. Or you have to come back and tell me which existing program you want to cut. When you have decided which program you want to cut as a part of your proposal or which tax you want to raise to pay for your new program, come back and tell me.

And most of the time they didn't come back because they could not figure out how to make that choice. So you had a self-disciplining mechanism.

So I agree with you. I am one that feels we should go to some external restraint that will make it live up to our responsibility, and, obviously, the line item veto, especially when we get into the omnibus bill where you have the entire budget in one bill, we have had continuing resolutions. The veto power of the President means nothing in those situations because, in essence, he has to sign the bill or he brings down the entire government and closes everything from the Washington Monument to the FBI. And so the choice is not really one that the President can make.

Let me ask you, and I agree fundamentally on the two major points on the budget you made and also on the way we do the counting, we need to have one standard way of defining what is an expenditure and what is a cut and one that makes sense to the American people. One of the things that worries me now in the

current debate, there are those that say, well, they want to count doing away with a "tax expenditure" as a spending cut and not as a tax increase.

Well, you know, we all know what a tax expenditure is. That means a tax deduction. As I said to some of my colleagues, let's take someone running a hamburger stand now who hires difficult to employ people. They get a targeted jobs tax credit to hire them to work at the hamburger stand, for example, because these are people, for one reason or another, it is very difficult to be able to afford to hire them. And yet it is better for them to be doing this than to be on welfare. But if you take away the tax credits, the operator of the hamburger stand, his taxes have grown, and it is very hard, and he may not be able to afford to hire that person now and that person goes on welfare. So it is difficult to convince that small businessman or woman what they have just had is an increased cut in spending when, in fact, they have had a tax increase.

So we use a lot of terms in a way that may make sense inside the Beltway but they certainly don't make sense out in the real world, beyond where people are struggling to meet their payrolls, keep their businesses open and so on. So I agree with you on that point.

Let me ask you on another matter, if you have given any thought, Senator Domenici, who is the Vice Co-chair of this committee, and of course a great expert on the budget on your side of the aisle, has indicated to us he thinks that in addition to some of the other things you have talked about, that we should consider biennial budgeting, two-year budgeting, as opposed to one-year budgeting. We should authorize and appropriate in a two-year cycle instead of a one-year cycle, and that then we would be free in this off year to spend a lot more time engaged in oversight.

In other words, as you say, you would have to go home and live under the laws we have created. His argument is we would have a much better decision in terms of the budget and other laws if we spent every other year really meshed in the task of overseeing and looking at the practical effects of what we had legislated a year before. And then, also, you could have some longer range planning other than doing the budget every single year.

Do you have any thoughts about that, as to whether or not it is something we should look at?

Senator CRAIG. That is one of the numbers in my full text I did not cover in my verbal comments. I do think that is something we should take a serious look at and move towards attempting to implement. One year of budgeting, appropriating and passing reconciliation, tax legislation?

Chairman BOREN. Right.

Senator CRAIG. And then the oversight and the authorization in the second year?

Chairman BOREN. In the second year.

Senator CRAIG. I think that is extremely valuable for a couple of reasons. First of all, I think it gives us the time necessary and it gives us the oversight that you speak to, but it also causes us to handle our other legislative affairs in a different way. We tend not to have, if you will, the freight trains moving through that we can tag everything on to, those omnibus bills that have everything at-

tached to them. We become better legislators again in sorting out other types of legislation and allowing them to stand on their own, and I think it gives a great deal more meaning to the process, probably gives more meaning to the individual committees.

Chairman BOREN. Yes.

Senator CRAIG. That we would have. So, yes, I do believe that would be a valuable reform and we should make an effort at doing it.

Chairman BOREN. That is something that as we met as a committee it is an idea that is emerging as one that I think will get very serious attention. It is too early to say that is something we will recommend, but it has certainly emerged as an idea many Members of the committee on both sides of the aisle think we should seriously consider and I am sure we will as we begin to mark up our recommendations.

I didn't fully, and probably won't surprise you, agree with you on a couple of points you made. One, on the filibuster. And I don't fundamentally disagree with you about the fact that we should totally do away—that a super majority should be required for final passage of the bills, and I have been in the Senate under both Republican and Democratic Majority.

Senator CRAIG. You would have been, that is correct.

Chairman BOREN. I have had that experience and I have also—I suppose I may be too independent for my own good at times—I have been, even when my party has been in the Majority, there are times when I have been on the Minority side in terms of wanting to prolong debate.

Senator CRAIG. The Minority is not necessarily the Minority party but the Minority coalition.

Chairman BOREN. Not necessarily a Democrat or a Republican Minority, but sometimes a bipartisan Minority here, that is right.

The one thing I wonder, though, and this is something Senator Dole and Senator Mitchell, both of whom aspire to be Majority Leader after the 1994 elections, something they have been meeting together about and have not reached a final conclusion, but it seems to me, and I would just like your reaction to this, that if we were to decide not to change the fundamental filibuster rule at least in the sense that you would have to have a super majority of 60 in order to pass, bring something to final passage, it does seem to me we do in some of the other elements of it related to the filibuster unnecessarily entangle ourselves.

For example, the fact that Senators can anonymously put holds on bills, and I have experienced this, and again in a very bipartisan way, sometimes within Members of my own party with whom I have had trouble putting holds on my bills or proposals or nominations, that perhaps we should at least consider some mechanism where an individual Senator cannot anonymously indefinitely postpone bringing something up and that perhaps on the motion to proceed to a bill, that it be in order after a certain period of time that is reasonable even if still you kept in place the ultimate protection of, say, a 60 vote requirement to ultimately pass the bill.

Do you think even within the bounds of not doing away with the ultimate protection—I understand philosophically why you feel it should be there and why it is an element of the way in which the

Senate is uniquely put together—do you think we could at least consider streamlining some of the preliminary procedures before we ever get to that point of actually invoking cloture on a bill, such as the anonymous hold and some of these other things?

Senator CRAIG. Mr. Chairman, I would be very willing to look at some of those things. I would tell you the anonymous hold, although we have all used it, I have to think it is a bank door way of legislating.

Chairman BOREN. Right.

Senator CRAIG. Or stopping legislation. And I don't necessarily find it the right way to handle things. So I am very open to that kind of thing.

What I want to keep in place, I think, is that fundamental power that comes from the super Majority requirement—

Chairman BOREN. To pass a bill.

Senator CRAIG. —to pass a bill. And I think that in the end it is very important because it does fit, I think, constitutionally into what we are much better than some of these things that have been creations coming off from that over the last good number of years, and one of those being the hold approach.

Chairman BOREN. Some have suggested that even those that would say we should keep the 60 vote requirement for passage of a bill, they say, well, just to more orderly do our business when we get to holds or filibusters of motions to proceed; we should dispense with those preliminary stages faster and then get to the ultimate decision. If you cannot get cloture or the 60 votes then you are not going to get there, you bring the bill down and move on to something else, but sort of a process which enables us to reach a decision, not necessarily a decision by a Majority vote but to reach a decision, for example, on the question of whether you will have cloture or not on the bill. To get us to that point sooner might be beneficial for us in terms of moving our work.

I see our other colleagues that are going to testify are here so I won't delay them by asking other questions.

On the question of term limits, I must say I think that the arguments that you raise for it are among the most interesting arguments I have heard and the most appealing. I am torn between my view that we really should have citizen legislators. I am one that still owns my home in my home State. I went back to it 42 weeks last year. My family and I are very involved not only just in politics but in what you might call civic work, nonpolitical work, educational work and others in our State, and I do think it is a very sad thing that many of our colleagues have really lost touch with, and their families have lost touch with their home States and have perhaps become more Washingtonians than they have as citizens of their home States.

I also think that we do, that perhaps at times the desire for longevity here causes us to not make some of the tough decisions, be willing to make some of the tough decisions that ought to be made and that empires are created. I do have the concern that if we were to do this overnight that we could strengthen the hand of the bureaucracy.

For example, as a member of the Finance Committee dealing with people down in the Treasury Department, one of the interest-

ing things is I have seen administrations come and go. For example, the shift from Carter to Reagan. You would have thought that would have been a dramatic policy shift on the tax policy, for example. It has been amusing that at times, and I remember after Carter left, Reagan came on and we were discussing, I believe the issue of inheritance taxes or something else, all of a sudden the Treasury position didn't change, even though there had been a sort of dramatic change in administrations.

I wondered why. And I realized the same people at the Treasury Department were still the same ones churning out the position papers, and they sort of took the position of, well, if we don't like the President or the Chairman of the Finance Committee or whatever, we will be there. We were here when they got here, we will be here when they are gone.

So we have to consider that very carefully, and I am hoping that if we do some of the rest of our work well, and perhaps put some of these constraints on ourselves, like the budget balancing amendment and the rest, that some of the evils that flow from the desire to stay here at all costs might be minimized.

I won't debate that whole issue with you except to say I compliment you on the way in which you presented the arguments for it today, and I thought they were thoughtful and they certainly merit our consideration.

Senator CRAIG. Mr. Chairman, on that last issue, let me close with this, I have oftentimes said back in my whole State in a joking but in a meaningful way, that when we change as elected Representatives back here from being critics to advocates, our usefulness to the taxpayer diminishes rapidly. And I mean that most sincerely.

And I watch freshmen legislators on both sides of the aisle come in and they are all largely critics, asking why do you do this and why is that done and why does this agency perform in such a way, and the senior most Member saying, well, because. And it is the "because" that I think cause us the greater trouble in the long-term.

Now, in the magic of an extended period of time, whatever that may be, you have a unique balance occur of both the critics and the advocates, and that is the dynamics of a good legislative process.

Chairman BOREN. That is right.

Senator CRAIG. It is when you get too many advocates and not enough critics you lose the dynamics. And I do believe that we are always in risk of that loss when we work very hard and perpetuating ourselves and the system allows it.

Chairman BOREN. I agree with what you have said, and it applies sometimes as I said once to one of our ambassadors who had been the Ambassador from the United States to another country for a long, long time. I went over to talk to him about why we were not more vigorously looking after American interests in that country, and after listening to him describe all of the reasons why the host country was——

Senator CRAIG. Wasn't he an elected gentleman?

Chairman BOREN. I said finally are you our ambassador to them or their ambassador to us? I think sometimes that that happens with Members of Congress as well.

The only thing I would say is I hope we can find a way to strike that balance, because there have been other times, I remember in a very critical moment, and this was before you came to the Senate, it was a matter of foreign policy concern, in which we had Members of both parties in a closed door, classified session of the Senate, very rare session, and there was a great deal of anxiety over something that had just occurred, and in almost an emotional mood gripped the Members and they were ready to strike out in a number of different ways, and I remember Senator Stennis and Senator Goldwater at that time, one from each party, were both Members of the Senate, had been here a long time, and they got up and said now, wait a minute, before you all go off and do something unwise, this is very much like a similar situation we faced, they each referred to the same situation, and here is how we worked through it and here is what would be the effect if we had not done it that way. So there was a great benefit to some historic perspective and institutional memory at times. And I think what you are saying is that is a very good thing as long as 90 percent of the memory doesn't have that kind of longevity and I think that that is right and I think that somehow we have to strike that balance.

Well, again thank you very, very much for thoughtful testimony that you have presented.

Senator CRAIG. Thank you very much.

Chairman BOREN. I will share it with my colleagues and I know they will read it with interest.

I will ask Senator Coats if he would come up next, and perhaps Senator Nunn would want to join him. He will be the immediate follow-on witness, our last two witnesses of the day.

And we welcome you, Senator Coats. Senator Coats is from the State of Indiana. He was appointed in 1988, first to the Senate on the elevation of then—Vice President Quayle, who was then—Senator Quayle to the Vice Presidency, and then of course Senator Coats won election in his own right to the Senate in 1990. He is currently on the Armed Services Committee where he serves along with our next witness, Senator Nunn, who Chairs that committee, and also on the Labor and Human Resources Committee.

We have been privileged to work together on a number of matters, environmental legislation and other matters of importance to our States and matters of mutual concern, and it has always been a privilege when I have had the opportunity to work with Senator Coats. We welcome you as a witness before the committee.

STATEMENT OF THE HON. DAN COATS, A U.S. SENATOR FROM THE STATE OF INDIANA

Senator COATS. Well, thank you very much, Mr. Chairman. I appreciate the opportunity to appear before you and also appreciate the significant effort that you and other Members of Congress are engaged in in looking at ways in which we can make this institution more efficient and more effective, and I wish you nothing but

the best of success and hope that I can be there with you as the package is presented to us and the options are presented to us in terms of bringing about significant reforms, making this institution more responsive to the American public and more effective and more efficient.

Chairman BOREN. Well, thank you. We valued your earlier testimony on the subject of ethics, before us and—

Senator COATS. You will get more of that today, but I want to add my two cents' worth to your discussion on the two-year budgeting cycle.

Chairman BOREN. Right.

Senator COATS. I am a strong proponent of that. Also I am not here to discuss that today, but I really think that one of our failings has been lack of time and opportunity to oversee what we do authorize and appropriate. Given a two-year cycle, I really think we could put some sense into the way in which we address the Nation's business.

I know we have discussed that on the Armed Services Committee, and I really believe we can take a better look at what we do and more effectively do what we do on a two-year cycle. So I will add my name to the long list.

Chairman BOREN. I will record you in that column, because as you heard me say, this is a matter that as our committee talked together we really took no votes, made no decisions, but we listened to each other over the past weekend at the retreat at the Naval Academy, with 22 out of 24 Members present were there showing a strong interest in reform and there was decided interest in this idea of biennial authorizing budgeting and perhaps doing it every other year with oversight in the off year, and not that we have decided for sure to do that yet, but there was a strong interest. So it helps us to know other Senators share that same feeling.

Senator COATS. Well, I do.

Let me take a few moments—I know our time is limited—but let me take a few moments to bring before the committee the reasons why I believe we ought to examine thoroughly the way in which we judge ethical conduct among ourselves.

I don't think it is a radical idea that citizens should judge the ethics of their own public servants. We do that throughout our legal system. We attempt to secure disinterested parties to judge a matter that directly affects the defendant and I think that that same standard would help restore some faith and trust in the institution.

And the reason it prompts me to suggest this is having campaigned for four straight years for the Senate seat, I obviously encountered many, many individuals and was able to ascertain what their opinion was of this institution. I was distressed to find that we are held in very low regard, in very low esteem.

I think that is a dangerous situation. It is dangerous from the standpoint that if we are to pass laws that have effect and will be carried out by the American public and respected by the American public, they have to have confidence in this institution.

The Lou Harris poll conducted earlier this year asked Americans which institutions they had confidence in. I was pleased—in which they didn't—I was pleased the United States military ranked the

highest, with 57 percent of those interviewed expressing a great deal of confidence in that institution, but the United States Senate and the United States Congress ranked second lowest with a rating of 12 percent. The only institutions with a lower rating than Congress were law firms. The fact most of us are lawyers probably doesn't enhance our status any.

I think that is a dangerous situation for the future. Whether we are proposing economic policy, foreign policy, social policy, if what we propose is greeted with cynicism, is greeted with skepticism, is viewed as coming from an institution that is held in very low regard, I think that has some very negative and potentially dangerous connotations for our Nation.

Now, one of the things that was raised to me over and over, and of course there were a number of ethics, fairly public ethics considerations under way during the time that I was campaigning, one of the things that was proposed to me over and over is how can you people begin to objectively judge yourself? We understand that this position is unique and that the demands of this position are unique, and yet the public views our proceedings of Senators judging Senators as something akin to family members judging each other. We don't go to the family reunion to select the jury to evaluate the right or wrong perpetrated by one of the family members, and yet we sort of do the same.

Chairman BOREN. Could be dangerous in some situations.

Senator COATS. I suppose it could, but for that reason I thought that one of the things that we could potentially do to restore some of the credibility of this institution was to set up an outside institution to judge the ethics of Members.

I have, therefore, introduced legislation in this Congress as well as past Congresses, it is S. Resolution 23, which would abolish the Ethics Committee and establish an independent commission to investigate ethics complaints.

My legislation would transfer the administrative function of the Ethics Committee to the Rules Committee and then establish an independent commission to assume the disciplinary function. That commission, I have suggested, should be comprised of two retired State or Federal judges, two retired Members of the Senate, and four private citizens appointed equally by the Majority Leader and the Minority Leader. If warranted, the commission would have the authority to appoint an independent counsel with investigative authority, including the right to hold hearings, issue subpoenas and so forth if it deemed necessary, an egregious type of case. And once that investigation was complete, then the independent counsel would be required to report his recommendations to the full Senate for a response.

The Joint Committee on the Organization of Congress has been entrusted with the task of proposing responsible changes in the way we do business and I hope that you would consider this suggestion as a means by which we could restore the integrity of this institution and the confidence of the American people in this institution.

Chairman BOREN. Thank you very much. We will certainly look at S. 23.

Let me ask, this has been a matter of interest to me, as you know also. I have made some proposals and have been looking at it, and I agree with your fundamental point that if our process is totally one that is internal, with only Senators the only people that will look at other Senators and so on, that it really does, I think, lack credibility with the American people. So I am on the side of those that feel we need—that the status quo is really not an acceptable approach.

As we have talked about this, and I would tell you that, again, at the retreat of the committee there was a determination to keep this ethics matter on the agenda; that this is something we should really look into very, very carefully and should seriously consider whether or not some changes are in order.

The House, as you know, has looked at it more recently than in the Senate. We have a special committee looking at it on the Senate side. They ended up with a two-part process on the House side, a fact-finding and then sort of another group to look at the appropriate punishment that should be given based upon the finding of facts if guilt were found.

Several of the witnesses before us have said, however, that they feel the ultimate judgment under the Constitution, that the Constitution requires us ultimately to judge ourselves in the sense that it is only Senators that could vote to expel, censure, reprimand by some action or another, whether a resolution of reprimand, whether removing them from their seniority or something else; that the Members themselves, they felt the Constitution demanded we ultimately had to judge, make those votes and impose those punishments.

They argued while we could have a system that involved nonsitting Members, either former Members, former staffers or citizens at large or judges or others in the earlier phases, the fact-finding phases, and the commission that could make recommendations, let's say, to the Senate, that they felt the Constitution required it to make the ultimately judgment or take the ultimate action.

Have you looked at those constitutional arguments and what is your assessment of the merit of those arguments, even if we went to some outside participation? Do you believe we could have a system that is totally outside participation or do you think the ultimate judgments would have to be rendered, the final punishment would have to be met out by Members themselves under the constitutional requirements?

Senator COATS. I have looked at that and I wish I could give you a conclusive answer. I am not an constitutional expert and I think there are arguments on both sides.

Many advocate than we could, by statutory action, determine to have that done on an outside basis and the court would uphold it. Others take the opposite view.

If it were determined that constitutionally it was the Senate that needed to take the ultimate disposition of a matter, that certainly would not preclude an outside council or outside committee making a recommendation with a full report to Congress.

I think that in and of itself would be a great step forward in terms of restoring some of that credibility, because I think some of the questions come into play when the recommendation is made as

to what was done, what was said in the committee, what was the basis for the determination. The penalty does not seem appropriate to—

Chairman BOREN. What facts were found.

Senator COATS. What facts were found, exactly. So we could, if we determined that the Senate needed to make the ultimate disposition, we could still easily structure a procedure whereby that report was and recommendation was forwarded to the Senate, and then I think we would be more accountable to that recommendation. The public would feel that we had been more objective in seeking a determination as to what the disposition ought to be.

Chairman BOREN. Well, I appreciate your comments very much, and let me assure you that we are going to give very serious consideration to this matter and we will give very serious consideration to your proposal as has been embodied in the legislation and as you shared it with us.

I am going to be surprised if our final recommendations don't include something in this area, exactly what it will be, it is hard to determine yet until we have the full range of views on the committee expressed, but I can tell you that there was a strong desire to keep that matter on the agenda.

We have, as I say, these groups looking at it, other groups within the Senate looking at the ethics rules, but there was a feeling that there was a charge to the Joint Committee to look at this area and there was a very strong desire of the Members to do that.

So it is certainly going to be a matter we will be paying a lot of attention to. Thank you very much for taking the time to come and be with us, and I appreciate your comments on the budget process as well.

Senator COATS. Thank you, Mr. Chairman.

Chairman BOREN. Our final witness today is Senator San Nunn, who was elected to the Senate in 1972. He is the senior Senator from the State of Georgia, and in addition to being Chairman of the Senate Armed Services Committee which is the post for which he is perhaps best known as Mr. Defense in the Senate, in many ways in the country, he also serves on the Governmental Affairs Committee and on the Small Business Committee.

I would have to say, and I know he knows this, but before I came to the Senate, he is one of those people for whom I had great respect, having watched his record from the outside. And as it is sometimes said about people that an acquaintance either deepens respect or breeds contempt, one or the other, and I have to say in the situation with regards the Senator from Georgia, I admired him by watching his work before I came to the Senate and I have come to admire and respect him even more having had the opportunity to work with him, not only on matters of defense and national security, where we had a wonderful opportunity to work constructively together during the six years I Chaired the Intelligence Committee, because our authorization bills were jointly considered by the Armed Services Committee as well, but also on the work on the budget and on trying to bring about fiscal responsibility and many other areas of importance to legislation.

So Senator Nunn, we welcome you. We appreciate the fact you have taken time to come to be our concluding witness today.

STATEMENT OF THE HON. SAM NUNN, A U.S. SENATOR FROM THE
STATE OF GEORGIA

Senator NUNN. Thank you very much, Chairman Boren, and I really thank you and Chairman Hamilton and Chairman Domenici and Chairman Dreier for heading this effort and all the Members of the committee who are working with you. I can't think of any more important task than you have undertaken here. It takes hours and hours and hours of work and thinking and when you get through with your product, it will be attacked from many different sides, but in the final analysis, I think you will have performed a real service.

I remember seeing a picture of you when you were elected Governor and you were pictured with a broom and you were going into office to sweep out I suppose a lot of things that were wrong in the government in Oklahoma, and I think you are continuing to use that broom here and we need it. We think we are working very, very hard every day, and I think most people are, but we have the perception of ineffectiveness out there in the land and I know your mandate is to try to improve the effectiveness and to simplify operations and to improve oversight and also to improve the legislative process as best you can.

I am not going to try to cover the scope of all that because it is a very broad scope. Let me say, though, that I think we are going to continue to have an effectiveness problem in terms of public perception for a long time no matter what we do here. I think we can improve the process, make it better, and I think we can make our own hours every day much more effectively spent, but whether we will cure that big perception problem in the public, I have great doubts.

The reason—I think the underlying reason, there are many reasons—is that the Federal Government is now and has been for the last 20 or 25 years trying to tackle everything from foreign wars to taxes to local sewers. We are doing it all. We are trying to be the State legislature, we are trying to be the city council, we are trying to be the county commissioners, and we are trying to be the Federal Congress. Can't do it all. We all know that. But every day, if you look at your schedule, the scope of it covers everything from what you would normally think of as a city council function right up to the question of war and peace. And that is too broad an agenda, and that goes really to the question of the Federal Government.

I think the Federal Government is involved in almost every facet of life in America from the very local level right up to the top. As long as we try to pretend we can handle it all at the Federal level, we are going to have the perception of ineffectiveness. And the thing I fear most is that we will do in actuality, as well as perception, is do a poorer job of dealing with those things that only the Federal Government can deal with as we are trying to do more and more in the broader sense.

And all of these undertakings are for the best of motives with everyone having the public's interest in mind when you undertake those, but the bottom line is the Federal Government is too big, too pervasive, and that is the core of the problem here.

But I am optimistic in the sense I think the recommendations you all make will go a long way. I don't think we are going to cure that overall problem until somebody runs for President of the United States on the platform of basically getting rid of a whole lot of Federal responsibilities and finding a sensible scheme of delegating it back to the States and local government.

Every time that has been attempted, it has been a budgetary exercise. It will never work as a budgetary exercise, even though that has to be part of the fundamental consideration. In other words, if a State and local government concludes the only reason it is being done is to dump more responsibilities on them without any money, then it will not work. So that remains for another day.

Let me make a few points I think could go to the heart of your task. I think the number one problem here that could be addressed, and we should address, is the duplication between the Budget Committee, the authorizing committees and the Appropriation committees. I won't take much time because I know you have heard this from other witnesses but just one example.

In August of 1991, on the Floor of the Senate when we were considering the defense authorization bill, we had seven amendments on the strategic defense initiative and we had two amendments on the B-2 bomber. I would suggest, without going back, that those amendments took at least three days, or perhaps four days, maybe longer.

One month later, the appropriation bill comes up and we do the same thing over again. We have two amendments then on SDI and two amendments on the B-2. One month later, 30 days later, the same body, the same legislation, the same budget, the same debate, complete total repeat.

That goes far beyond just Floor action, it goes to the heart of what we are doing as committees. In effect, every major defense contractor, every military service has four bites at the apple. They have the chance to get their program and the authorization bill. If they fail there, they get it in the appropriation bill. And that happens on the House and the Senate side. So it is very hard to ever conclude anything about defense programs.

This is not just in defense. I think it is far beyond defense but perhaps this is the best example.

So my number one point is that I support the Kassebaum proposal to merge the appropriation and authorization function. I know there are a lot of different ways to do it and I am not here to prescribe how you do it. But if you did merge the Defense Appropriations subcommittee into the authorization committee or vice versa just on the Senate side, then in effect if you use the seniority system, I will lose my chairmanship of the committee.

But it is a price that I would be willing to pay because I think the ineffectiveness, inefficiency, spinning our wheels, duplication and redundancy that is taking place now undermines the process and the result.

The second point I want to make is the two-year budget. I won't take any time on that except to say that we have tried it in the authorization bill for three years, we have had a two-year budget. We can only do about 70 percent of the budget. You will always

have some controversial items that nobody is willing to do for two years, so you are always going to have some annual look at it. But I have concluded it will never work with authorizers doing it unless appropriators do it also. So two-year authorizations don't mean anything if you don't have a two-year appropriation. So it has to be both or it won't work.

I think that would greatly improve not only the Congress, but it would improve the executive branch and it would give the committees a chance in off years, the years where we were not doing 100 percent of the budget, maybe 10 percent, whatever we have to do, it would give us a chance to do the oversight that is so sadly lacking.

The public perceives that we don't pay much attention to the programs that are created and they are right. The public perception on some things is wrong, but in this area, I think they are right. We don't have good oversight. We have a few investigating committees. We could just throw a dart up on the wall and investigate any program, and while we think it might take 30 days, it takes six months because it gets bigger and bigger in terms of the problems we run into.

We thought we were going to spend six months but it is now two years. The reason is we are all caught up in the budget and appropriations and authorizations process. That is my second recommendation.

The third one, Mr. Chairman, you know just as much about it as I do, the tactical intelligence known as TIARA. I know you have had recommendations to combine that with the Intelligence Committee. I don't think you can take the pod off a F-14 airplane. Those two go together.

I am a supporter of the Intelligence Committee. I have served on it. I think it has performed a useful function. I don't believe taking on tactical intelligence is the way to go. I think that has to report to the combatant commander. That is clearly a matter of Armed Services Committee concern.

I think as we talk about erosion, I think this is our duty under the Constitution. As an example of that, Somalia, we have seen 25,000 American troops committed. We just passed an appropriation bill with \$800 million worth of expenditure.

Congress, if it has any power to declare war and make those decisions in the case of Somalia, the action took place when we were in recess. The Senate spoke to it in Senate Joint Resolution 45. We have deployed large numbers of troops.

The Congress of the United States has never spoken on this subject. That is a prime example of being so consumed with everything else at every level that, in many cases, duplicates city and county government and State government and we don't take care of the true responsibilities that were made absolutely clear in the Constitution.

Chairman BOREN. What mechanism should have been used, in your opinion, for us to take action in response to the deployment of the troops in Somalia?

Senator NUNN. Mr. Chairman, I have talked with you a number of times. I believe we ought to have a leadership committee that meets with the President on a regular basis that would be empow-

ered to give interim approval and go ahead to certain actions like conflicts that may start in the middle of a recess.

In the case of Somalia, if we had addressed it in January or February, we would have passed it. People support it. There are going to be other actions involving even the U.N. that we are not going to support and it might be fundamentally against our interest.

It is not a matter of criticizing the Somalia operation. I think our authority was eroded by that. I think some form of leadership committee that would be consulted not simply when missiles have already been fired or when troops have already been deployed, but consulted beforehand.

If necessary, you could get it down to perhaps, for a top secret kind of requirement where the President was super sensitive about keeping a secret, I think you could get it down to a very small number. On most occasions, I think you would probably have 16 to 20 people, but on some occasions, I think you could get it down to as few as four people or six people for things that are extremely sensitive until it could be known.

So I think that is a primary area that we need to address. I would endorse the Majority Leader's proposal, just closing out, on two-hour time limit debate on a motion to proceed. I think that needs to be done. I have not looked at all his proposals, but I certainly endorse that one.

I would add one to the list on rules changes. We have a two-day rule for any piece of legislation that comes up. Yet on a conference report, the final product, it can come up at any time. So we get toward the end of the session and the conference reports which are the final product, that is what is going into law, are treated so cavalierly that you can bring them up anytime. Nobody has a chance to read them.

That reinforces the tendency of the Appropriations Committee, and they do a great job in many respects. I am not here as a critic. That reinforces the tendency for that to be done toward the end of the process, because whatever they come out with at the end, if it is that thick and if it doesn't have to stick on the desk, then it just goes right through.

That also causes the Appropriation Committee itself trouble because everybody knows that is the process and, therefore, if you can get your legislation on an Appropriation bill, then it will have a lot less scrutiny toward the end of the session than at any other point. So I think that needs to be addressed.

Maybe it would be a one-day rule, but I think conference reports ought to be accorded the same kind, or Members should be accorded the same kind of time frame to examine conference reports as they do legislation to begin with.

Chairman BOREN. Thank you. You are the first person I know that has made the very last point that you made in terms of conference reports. We have had very complex reports. I remember the Surface Transportation Bill a few years ago that years ago that we endeavored to find out how it affected our own individual States, for example.

Really, I received three separate answers, one from our own committee staff, one from the conference committee staff and another from the Federal Highway Administration, all of whom told me the

bill had different amounts in it for different purposes and different modes of transportation. It was not yet printed, I don't think, or if it was, no one had the time to go through the several hundred pages between the time, perhaps maybe ten minutes, between the time it was printed and the time we voted on it. So, I think that is a very important point.

One of the things I think we need to look at in terms of procedure is also some kind of rules that apply in conference committees as well. We really do not have very many rules that apply to how conference committees operate. As you indicated, there are many important things that happen here.

Let me take you back to the question of authorizing, appropriating, merging the two functions and also the biennial idea, the multiyear appropriation and authorization. I think that most of those who presented, and let me go first to the two-year idea, most of those who presented the two-year idea have advocated applying it both to appropriations and authorization. The idea being the authorization would be in one year and the appropriation would be in the next for a two-year period and that might, in itself, reduce this tendency to authorize on appropriations bills.

Oftentimes we get out of sync. The appropriation bill comes up simultaneously and sometimes even before the authorization bill. This almost forces the appropriators to authorize or at least give them an excuse about authorizing. There has been some who thought that, let's suppose we do not merge the two fully, and prematurely decided we won't.

I think Senator Kassebaum was at our meeting over the weekend, she and Senator Lugar and Senator Ford who is a member of this committee have all made similar proposals. So it is certainly a matter that we will look at and certainly not look at in a cavalier or dismissive fashion.

But I think we all realize that that is a very difficult one to achieve. It does involve some of the most senior members of the Senate in terms, as you said, you might well lose your own seniority under that proposal if there was such a merger. There are some willing and maybe some unwilling to do that. I am not sure how many others have stepped up along with you to volunteer in this manner.

So from a political point of view, it is very difficult. The committee wants to do as much as we can and also achieve a result. We don't want to have the kind of result that we have had in some of the earlier efforts that ended up with nothing ever being done. It is something that we are going to look at very seriously.

If we do indeed go in that direction, I will value your thoughts as to how we really do thread through the question of seniority as you merge two committees together. Would you just take the senior member of whatever the merge result was and then set up seniority, in terms of the time in the Senate or how would you do that?

Senator NUNN. I think when you merge them together, you have to take the committee's seniority as it exists at that point and compare, for instance, in this case, my seniority would be compared with, if you merge Defense Appropriations subcommittee, depending on how you did it, my seniority, it would be compared to Senator Inouye and he would clearly have seniority.

I would lose my chairmanship, but I don't know of any fairer way to do it. If you go to any other methods, I don't know how it would work. If you did it by how long you have been in the Senate, I think in most cases it would come out the same, but in some cases it would not because some people went on committees later. I think it ought to go by committee seniority.

Chairman BOREN. So you look at the seniority on the two committees combined and look at that. Let's suppose that if that did not happen, and it is too early to judge whether that will happen or not, if we went to a two-year budget cycle for both appropriations and authorization, if we somehow won, do you think that would help in terms of ending duplication and ending the temptation to authorize on appropriations bills? That would be one question.

Second, are there any ways in which we can strengthen the rules? It is very interesting. Both when Chairman Natcher and Chairman Byrd testified before us, they both expressed their philosophical opposition to them authorizing on appropriations bills. They both then confessed that this had happened, I think, more on the Senate side than on the House side.

I think Chairman Natcher said it happened less often on the House side. But at times it had to happen because the authorization bills were not passed, so he had a situation where there was no authorization bill.

They also said that very often it was at the request, some kind of a back door request of members of the authorizing committees that these things be put in.

Senator NUNN. That is true. I have seen some letters members of my own committee wrote after they were defeated in our committee asking the Appropriation Committee to do it.

I am not saying it is the committee's fault. It is the way the system works.

Chairman BOREN. They also said that originally the idea of why the two were set up separately, at one time in the history of the evolution of the Senate they were not separate. The appropriating committees would be bound not to appropriate more than the authorized figure. They could only appropriate at it or less. In essence, it should have resulted in more frugality. That has not been the fact at all.

It is partly also due to the fact that authorizing committees often authorize by saying as many funds as are necessary to carry out this function are authorized. So, it is sort of a blank check.

Senator NUNN. I think any authorizing committee that does that deserves whatever they get.

Chairman BOREN. The problem is the taxpayer is really the one who gets it because we have so much spending under those kinds of open-ended authorizations. If we were to go to a two-year authorizing and appropriating cycle, what do you think that would help in terms of authorizations under appropriations?

Two, are there any additional rules that we could put in place or any additional enforcement mechanisms we could put in place to prevent the Appropriations Committee from authorizing on appropriations bills?

The theory being, if you did it one year authorizing and the next year appropriating, there would no longer be the excuse that there was not an authorization bill. In most cases, there would be an authorization bill. As you said, hopefully we could even make a rule prohibiting open-ended authorizations. They would have to be specific amounts.

Is there anything we could add to the mix in terms of enforcement mechanisms and strengthening the rules that would prevent authorizing on appropriations bills that you can think of?

Senator NUNN. If you go with the two-year budget, I think that would help in many ways, but again, only if the appropriators do it also. I think it would help the relationship all the way around because there would be more oversight going on. And I think there would be less attention to simply the budget. Therefore, all of us would be less obsessed with our budget prerogatives.

We might be having a more healthy competition with the oversight competition to see who could basically go out and find out how the money was being spent best. Right now, the budget competition, I think, has become unhealthy. I don't think it would solve the problem. If you are not going to merge the committees, I can't quote the provision in law, but there is a provision in law that no money shall be expended without appropriate authorization.

We have specifics in the law, for instance, on military construction that don't allow it to be spent without that. I think if the Leadership or through some change in the rules—it might not even require a change in the rules if the Leadership got together on it and informed the executive branch that we intended for the executive branch to basically take that seriously and not spend the money unless there was an authorization, that would accomplish a great deal.

We had that relationship on Defense with Secretary Carlucci when he was Secretary of Defense. We had it for the first year that Secretary Cheney was Secretary of Defense. Ken back there remembers it well because he was involved. At that stage, the money was not spent by the Defense Department unless there was an authorization.

Obviously the appropriators did not like that, but after the first year, Secretary Cheney changed, and at that stage, the Defense Department took the position if it was appropriated, that was the equivalent of an authorization and from that point on—

Chairman BOREN. If they cannot win in one, they won in the other.

Senator NUNN. That is right. We got along as well as committees get along given the inherent problems there. I think Senator Inouye does a terrific job with his subcommittee. I have tremendous respect for him. They find some things that we do not find. As I view it, our bill should be not a floor, because we say that we need \$100 million in this program, I don't think the appropriators ought to have to spend \$100 million.

Chairman BOREN. It ought to be a ceiling.

Senator NUNN. It ought to be the ceiling. Theirs should be the floor. We ought to be the ceiling. If we are not the ceiling, we know we are not the floor and we don't want to be the floor because they ought to be able to cut below us. That gives a check to the taxpay-

er. But if we are not the ceiling and we know we are not the floor, then we have to ask ourselves what are we.

I think that is one of the reasons, in our case, we have not done it. We have always had an authorization bill, but some of the authorizing committees, as you well know, have taken the view that it doesn't matter because the appropriations committees are going to do it anyway.

That gets into the circle where, if they don't have authorization bills—and in Foreign Relations that has happened several times and others—then that means everybody starts putting legislation on appropriation bills because they don't have a vehicle to put it on. It is certainly getting worse, not better.

Chairman BOREN. It would be very important for us, whatever we do, especially if we don't totally merge, it would be very important for us to strengthen the rules that really make it impossible to authorize on an appropriations bill.

Senator NUNN. Absolutely right, and also to enforce the rule where an authorization is indeed the ceiling.

Chairman BOREN. In the House, I believe they can raise a point of order of authorizing on appropriations bills. Sometimes they have done that on conference reports that have come out of conference with the Senate where the Senate has allowed authorization. Do you know if we have the right to raise that point of the order? Does it require a super majority on the Senate side or not?

Senator NUNN. I know we have the right to raise it. Senator Byrd has raised it on a number of occasions where I have been present. I believe the Chair usually rules with the Senator making that point of order and then the motion would be in overruling the Chair, and I think that requires 50 votes.

Chairman BOREN. That is something we ought to think about and perhaps look at requiring a super majority. That would make that rule much more enforceable if we required a super majority. I think those are very interesting points.

Senator NUNN. If you don't do one of those things, then it is time for us just to basically sit down and carve up the jurisdiction of the Armed Services Committee and say look, we will take X number of accounts and you take X number of accounts. The duplication is counterproductive. Believe me, it costs the taxpayers an awful lot of money because nobody's program is ever dead until all four committees kill it.

Chairman BOREN. I think that is a very important point. One other area that has been suggested to us in terms of duplication of process, you talk about how we vote on things over and over again, the budget resolution, if you are talking about the B-2, I recall sometimes we have had even additional votes on it because we not only voted on it in the authorization bill and then on the appropriations bill, we sometimes voted on such programs on the budget resolution as well.

There has been a suggestion that we might, in essence, do away with the budget resolution and instead substitute simply a very broad reconciliation instruction resolution that would not get into specifics at all. What it would say is here is how many revenues, here is how much spending, and here is the total figure instructed to each committee. Then perhaps outlaw any amendments, make

no amendments in order except amendments to change the total figure and maybe outlaw sense of the Senate amendments on this. Then you would really just have a debate only about the big bottom line numbers that should be going to each function and not revisit all the same debate.

Actually, it is not binding anyway, as you all know. Only the reconciliation bill is binding. So you can move something around within the Defense number in the budget resolution and it is not at all binding on the committees when it comes down to it anyway. They will decide within the total number they have just like we go through the Finance Committee.

We have lots of resolutions on the budget resolution saying the Finance Committee ought to do this and it ought to do that. But when it came down to it, the Finance Committee, they had its own deliberation. They decided all they would do is stay within the total revenue number and the total spending cut number and the total deficit reduction figure. They decided spending cuts within that.

So it is shadow boxing, but it takes an enormous amount of time. Would that make sense to you that we find a way not to duplicate in the budget resolution itself, also the same kind of debate and votes we have in the authorizing and appropriating process?

Senator NUNN. I have not studied that one. I guess a lot of my answer would depend on who was responsible for allocating the various parts of the pie and at what point. If it was all turned over to the Appropriations Committee to allocate as they saw fit, I would not favor that.

Chairman BOREN. I think the proposal would be to keep the Budget Committee in coming up with the reconciliation instructions, but to do it in a way that would not be amendable in the same way as has been done on the Floor in the past.

Senator NUNN. Would you still have budget guidance to the defense function so we would have an idea?

Chairman BOREN. You would have a total number for spending.

Senator NUNN. That would be worth considering on that. I also think that you should consider on the Budget Committee two other possibilities depending on whether you decide to merge. If you are not going to merge authorization and appropriation, another approach would be to make the Appropriation Committee in effect the Budget Committee and basically abolish the Budget Committee.

We have one-third too much here. We have budget, authorizing, and appropriation. One-third of it ought to go. We can argue all day about which third, how you do it, who has seniority, but it is a patent absurdity to go through three steps.

The other idea would make the leadership the Budget Committee. That doesn't eliminate anything, but it makes it much more of a part-time situation. The Leadership would be composed of all the authorizing committees and appropriations and perhaps be all one in effect. The chairman and Ranking Members of each one would be in effect the Budget Committee from the very beginning.

But I think there needs to be some fundamental change. To go through this three-way process is most injurious to the perceptions of efficiency. Nobody ever knows. I mean, some people out there that are following the program believe they have it because they

have an authorization. Then they find out a year later they did not have an appropriation. It just causes the whole process to be viewed as fundamentally flawed, and it is.

Most important, and I would put my bottom line on this, we are all so caught up in the budgeting, and so is the executive branch because they follow us. We set the pace on this and they are all organized based on how we are organized. We are all caught up in budgeting and we don't give oversight.

That means we create good programs and don't watch them. That means that the waste in government is not only a perception, it is a reality. We all know it is not enough to balance the budget. We can go out there tomorrow morning and find all the ways, but it will not balance the budget. But it is enough to cause the public to be justifiably disillusioned by it. That causes a great deal of difficulty when you are trying to deal with the budget.

When you are trying to ask people to really make certain sacrifices, for instance, in entitlement programs or to pay taxes, most people don't want to do it because they perceive that their money is being wasted, and a lot of it is.

Chairman BOREN. I have been interested in a lot of things that you have said. I don't want to impose upon your time. I think what you said about Federalism was a very interesting statement as well. It is a view of yours that I share very strongly.

We have reached a point in time where I think States and local governments in many ways are more innovative in their thinking and their approaches than we are in Washington. Some of the most innovative thinking and the most dynamic leadership in terms of combating some of our social problems and our educational problems and others are coming not from Washington but State capitals and local units of government as well.

I think in many ways if we were to, as you say, not just sent programs back without any money, but to get back to the idea of allowing fewer guidelines in the expenditure of funds and allowing more flexibility at the local level of these programs, that we would have in most cases a better, more cost-effective delivery of social services and other services to the public.

Let me ask you on an unrelated subject that you have not talked about. We have had a lot of testimony and certainly it was a matter of interest to our committee this weekend.

Our time—I think Senator Byrd said very well, our time has become fractured. We serve on so many committees and so many subcommittees, we cannot possibly do justice to all. The average Senator serves on 12 committees and subcommittees and some serve on as many as 24. The poll we put out indicated support for the idea of a strict limitation of six. That would mean a total of six committees and subcommittees altogether on which you could serve.

We are also up to—and the exact number changes in the way you count, somewhere in excess of 280 or 290 committees and subcommittees between the two houses. You have great growth in the numbers due to the great growth in the number of subcommittees, well in excess of 200 subcommittees, probably as many as 250 subcommittees.

Now, many in the polling data we got back from Members of the House and Senate, there was a strong advocacy for reducing the number of subcommittees substantially, by half or more, so that you can really set priorities in the full committee. There was also a feeling that staff would be used more efficiently. Several subcommittees have totally autonomous subcommittee staff.

I know in the Intelligence Committee, and you served on the Intelligence Committee, we have decided not to have any subcommittees. It is a committee of 15 members and they used to have six or seven subcommittees. We felt it was a much better use of our time, since we had only a certain amount of time to focus on all the really priorities that they ought to come before the full committee, rather than having every subcommittee set up on their own and give us six or seven at a time in each subcommittee, we might not hit the things that are the most important.

How do you feel about that? If we were to do that, if we were to limit the number of subcommittees, do you think it would be better for this committee to try to sit down and parcel out subcommittees to each committee, the number of subcommittees and perhaps describe the subcommittees, or would it be better for us to sit down and say no standing committees except the Appropriations Committee, perhaps, can have any more than three subcommittees.

If you really limit Member's assignments to six full committees and subcommittees altogether, if you have two committees and maybe a Class B committee, you could only be on three subcommittees, you would depopulate a lot of the uninteresting subcommittees right away.

So you probably could not keep many subcommittees even if you wanted to. There wouldn't be people to serve on them.

Do you feel we should try to do that or would we be better off saying no standing committee other than Appropriations can have more than, say, three subcommittees and we will leave it up to the Agriculture Committee, the Armed Services Committee, and other committees to decide what their three will be.

They don't have to have three. They might have two, they might have one, or they might have zero. We will say no more than three. Then let the Chairs of those full committees, in consultation with their Members, decide what would be the best way to divide up the jurisdiction of those subcommittees and staff the subcommittees and try to also have some staffing efficiencies as we go along.

Do you think any of those approaches would work and which one would you think would be preferable?

Senator NUNN. I would take either one of them in preference to the status quo. I think of the two, I would prefer leaving it up to the committees, but would give them a limitation on a number based on the number of standing committees.

Chairman BOREN. Do you believe we have too many subcommittees?

Senator NUNN. Yes, absolutely. When I was in the Georgia legislature in the late 1960s, we had a central control so that every chairman setting a meeting had to feed it in. You would go to the Speaker's Office and you would get a list of the conflicts which had members and what committees they were on so the chairman

would know how many of his members were already in another meeting before he set a meeting.

We don't even have that here. It would be hopeless right now because there are so many conflicts, it wouldn't make any difference. But if you got it down to a small number of subcommittees, then you could begin checking for duplication and people would be able to attend more meetings.

Chairman BOREN. We thought about this kind of system, that if you are down to approximately 40 standing committees, you have let's say 20 in each house, the standing committees. Some of these are exclusive committees, for example. You cannot be on Finance and Armed Services or Appropriations at the same time, at least in theory, once we get rid of all the waivers and have a strict rule.

But if you also then had a rule which said that the subcommittees, let's say the Armed Services Committee was assigned tuesdayS and Thursdays to be their meeting day. Some others got Monday and Wednesday. Say Finance meets on Monday and Wednesday and Armed Services meets on tuesdayS and Thursday. So that the subcommittees of that committee could also only meet on tuesdayS and Thursdays.

So the subcommittees and the full committees of that committee on which you served would always be meeting at the same time but not in conflict with the others.

You could probably eventually devise a system where conflicts for individual Members in meetings would become very rare.

Senator NUNN. That is right. When you cut it down, that would become feasible. Right now, I think you can figure out who is going where. I think that is entirely feasible once you cut it down.

Chairman BOREN. I appreciate very much the testimony you have given us. As always, you have given us a lot to think about.

Let me say, in exploring other possibilities with you in addition to the merger of the authorizing and appropriating process, I don't want to imply that we have made a decision on that matter. Members of this committee who are coauthors of that proposal feel very strongly about it. I am quite sure that we will seriously consider it and that they are going to insist that we seriously consider it.

I certainly agree with your basic point that we have far too much duplication now and we have far too much confusion between the authorizing and appropriating process and it leads us to never make a final decision on anything, which I think is the thing that frustrates everyone who has to deal with government. They can't make any plan because nothing is ever final.

So it is something that we will look at very carefully. As we go through this, we may well, not only will we likely be, but we will certainly be back in touch with you to ask your advice and counsel as we go through this.

We will have an idea, I think, certainly during the month of July and August, we will have our broad concepts of the direction in which we want to go. We will begin then to flesh out details.

Senator NUNN. In the meantime, we will be sure to give you some more living examples during July and August.

Chairman BOREN. I have no doubt about that. Thank you again very much for being with us. Because of the very items we have been discussing today, other business pending, most of our mem-

bers have not been able to hear this testimony in person, but they will read this testimony.

I know from what I heard from our Members during our two-day meeting over the weekend that they are really following this closely. We have put together about 500 proposals. Members have been studying them.

I indicated earlier that 22 of our 24 Members, House and Senate, were actually at that two-day meeting which is a real indication of interest and I think a real determination that we are going to do something.

Senator NUNN. I think that is great, Mr. Chairman. I want to thank you again, you and every other Member, for spending so much time on this. I think it is enormously important. I think the credibility of the Congress will be effected very much by what you do. I hope to put my entire statement in the record.

Chairman BOREN. We will be happy to put your entire statement in the record.

We take seriously this charge. One of the things for which I am grateful is that we have had coverage of all our hearings through C-SPAN. When we started, there were a number of people who said to us, well, I am sure no one is going to watch, no one is going to pay attention to a subject that might be viewed as being as dry as the organization of Congress, our ethics procedures, how our committees function, how many there are, how they relate to each other, the budget process and the rest.

What we have found is quite the contrary. We have been hearing from many, many citizens who have been following our proceedings. They understand quite clearly that how we are organized or how we are disorganized greatly affects the legislative product, the policies, the laws under which they are living, the taxes that we are paying, whether or not we are spending their funds efficiently. People really understand that.

I think, again, because people are interested and are engaged, it gives us an even greater opportunity to come forward with a report that will bring about some meaningful change and improvement and hopefully to rally support then to get our recommendations passed by both houses.

I have been very encouraged that several of the senior members as well, who have had the responsibility of chairing very important critical committees, have taken the time to be with us and to give us their ideas.

So I want to thank you again.

Senator NUNN. Thank you. I would just let the staff know, Rick DeBobes has been working on this and if Rick can work with your staff on anything they would like to bounce around, he is available.

Chairman BOREN. We appreciate that very much. I have had the privilege of working with him in other areas and we know his expertise. We appreciate that offer. Thank you again very much.

[The information is printed in the Appendix.]

Chairman BOREN. The committee will next convene to hear as our final witness the former Vice President, Vice President Mondale, who will share with us his perspective, not only as a former Senator, but as a former Vice President, viewing our problems

from the point of view of both the legislative and executive branch. We look forward to that testimony.

We will stand in recess until that time.

[Whereupon, at 5:16 p.m., the Joint Committee was adjourned.]

APPENDIX

TESTIMONY BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

by

THE HONORABLE TIM ROEMER, M.C.
June 16, 1993

I would first like to thank both of the distinguished Chairmen for providing this opportunity for Members to share their ideas on Congressional reform with the Joint Committee. The task with which you are entrusted is a difficult one at best, and under your direction the Committee has already distinguished itself by the openness and thoroughness with which it has pursued its mandate.

Mr. Chairman, the Joint Committee has heard a great many suggestions, including some urging drastic fundamental changes in the way that the Congress of the United States conducts this nation's business. Today, I would like to offer what I hope will be a simple, but fundamental, adjustment for you to consider among the recommendations in your final report.

Early in the 103rd Congress, there was some discussion among members of both the Democratic and Republican caucuses regarding the desirability of a legislative schedule for the House of Representatives that was more "family friendly." Such a schedule would entail a timetable where the House would be in session for three consecutive weeks, followed by a weeklong district work period for town meetings or other events in Members' districts.

While some have observed that such a schedule, under which the Senate operates, does not result in the greatest efficiency, I believe that the "three in session, one in district" format that the other body has adopted offers a variety of benefits that this chamber could utilize as well.

Such a schedule would lead to a much more efficient functioning of floor and committee operations in the House. The current "Tuesday - Thursday Club" method of operations creates an inconsistent legislative schedule in which there are only three work days with which to take care of committee business, floor votes, and all of our other legislative and constituent responsibilities.

We are all too familiar with the many demands on our time, and, unfortunately, the current legislative and committee scheduling system does little to ease these demands. It often results in late weeknights during busy legislative periods, coupled with travel to and from our districts at the beginning and end of each week.

The shortage of time that results in compressing a full week's work into three days leads to overlapping committee hearings and meetings, often when the House is also in session. Even the best legislators can only be in one place at a time, and, as a result, are unable to listen to and participate in committee or floor debate as a result. Time is also short for Members to work together on important issues, and artificial constraints are often placed on floor debate because of Members' desire to begin travel back to their districts on late Thursday afternoon.

Also, should the House adopt an "Oxford Style" debate format as has been recommended by several of our colleagues, our current schedule would barely permit participation by Members, let alone enable a substantial number of us to listen and benefit from the proceedings. Under the proposal I am advocating today, the considerable benefits of "Oxford Style" policy debates could be realized and used to their full potential.

A program of three consecutive five day work weeks with planned district work periods of one week's length would, in my view, be a much more efficient way of operating. Such a schedule would provide a much more concentrated period of time for substantive work in committee and on the floor. It would also help members plan their schedules so that time with family and opportunities to meet with constituents in the middle of the week in their districts could be arranged.

In closing, I would like to extend my sincere appreciation for this opportunity to contribute to the work of the Joint Committee, and I would like to thank both Chairmen, as well as the entire Committee, for all of the time and effort they have expended in compiling testimony in order to present a package of viable and necessary reforms to the Congress.

I hope you will give serious consideration to the alteration in scheduling practices that I have proposed today, and I will be forwarding to the Committee soon, along with Representatives Karen Shepherd and Eric Fingerhut, a letter signed by many of our colleagues who agree with the need for this reform. It is my sincere wish that we can make progress toward performing our legislative procedures, and I stand ready to be helpful in any way that I can.

TESTIMONY BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
 REPRESENTATIVE RALPH REGULA (OH 16)
 JUNE 16, 1993 -- SC-5 OF THE CAPITAL

I come before the distinguished members of this Joint Committee as a member who has served for 20 plus years in the House of Representatives.

As a member of the Appropriations committee for 19 years, I am deeply concerned about the fiscal well-being of our country. Thus, my first of three recommendations today focuses on the manner in which the Congress handles the taxpayers' money.

BIENNIAL BUDGET

I strongly support the implementation of a biennial budget. I have introduced H.R.1383 -- The Biennial Budget Act of 1993 -- which would amend the Congressional Budget Act of 1974 to establish a two-year budgeting and appropriations cycle and timetable. The budget biennium would run for two consecutive fiscal years beginning on October 1 of any odd-numbered year.

This legislation would: devote the first session of any Congress to the budget resolution and to appropriations decisions, retaining current deadlines in most cases, and devote each second session to authorization activity, subject to specified deadlines.

H.R. 1383 would require the Director of the Congressional Budget Office (CBO) to issue four-year projections of congressional budget action. (Current projections are on a five-year basis.)

This legislation would alter the reconciliation process to:

- (1) increase the time of debate permitted in the Senate with respect to reconciliation measures; and
- (2) make it out of order in both the House and the Senate to consider any reconciliation legislation changing any provision of law other than one relating to new budget or spending authority, revenues, or the public debt limit.

This bill would conform provisions governing the President's budget to the biennial framework, and would direct the heads of Federal executive agencies, the Comptroller General, and the Directors of the Congressional Budget Office, the Office of Technology Assessment, and the Congressional Research Service to provide studies, analyses, reports, and other documentation concerning program administration to assist the standing committees of the House and the Senate having jurisdiction over the programs in question.

In short, instead of considering an annual budget resolution and 13

separate annual appropriations bills, Congress would pass a single budget resolution covering two years, along with 13 separate appropriations bills each covering two years. Program authorization would also be expanded to cover a minimum of two years.

I support a biennial budget for a number of reasons.

- o Congress' nearly exclusive focus on the annual appropriations process crowds out oversight of existing programs, thoughtful planning of new budgets, and consideration of non-budgetary matters. We need time to see whether the programs we fund are working.
- o A two-year budget cycle would save much of the time Congress spends on hearings, markups, floor debates and conferences. This time could be spent on oversight of existing programs and on formulating a rational budget plan for the coming years.
- o This plan would provide some fiscal continuity for federal agencies.
- o Finally, a two-year budget would simplify budget planning for states and local governments, which receive a significant share of their budgets from the federal government.

Thus, although budget process reform will not solve all of the ills of federal fiscal policy, it will enable us to spend our time more effectively and efficiently. Setting aside a period for planning and oversight will help overcome Congress' habit of focusing its energy solely upon the issue of the moment. What we need is budgetary discipline. Nothing would accomplish this as well as a biennial budget.

OVERLAPPING JURISDICTIONS

The solution to our problem with overlapping committee jurisdictions is both simple and complex. If I were to make a back-of-the-envelope sketch of a sensible division of committee responsibilities, it would be as easy to justify as a more complex analysis.

I hope that those who are designing committee jurisdictions will consider the proposal by Senator Mikulski when she suggested that we consider having one authorization committee for each major agency, and one appropriations subcommittee. As the Senator noted, FEMA reports to 26 different House and Senate committees and subcommittees and the EPA reports to 90.

Finally, I recommend coordinating the committee structures of the House and Senate if only for the simplicity this would bring to our legislature.

COMMITTEE ASSIGNMENTS AND ATTENDANCE

I support limiting the number of committee assignments. Chairman Rostenkowski made the eminently sensible recommendation that we limit committees to two per member and limit the number subcommittee assignments to two per member per ~~sub~~committee.

Further, I support requiring that attendance be taken at committee meetings. Constituents would probably like to know how we spend our time, and the committee process would be more effective if every member participated in the legislative activity of the committees. Committees are where the real work of the Congress is done, and any changes which bolster the effectiveness of our committees would be important features of a reform package.

Finally, I recommend an end to proxy voting so that members will be forced to represent themselves, and, thus, to fully understand the issues upon which votes are being taken.

IN SUMMARY:

By creating a two-year budget process, appropriators and authorizers alike will have the time and energy to effectively review the work of the agencies and the programs we have created. If we are to know whether these programs are running smoothly, we must have time to thoughtfully consider their work. Further, a biennial budget provides fiscal continuity and ensures that the federal agencies will have time to administer their programs without constantly preparing for the next appropriations hearing.

Overlapping committee jurisdictions is a waste of time, a waste of money, and a waste of energy. There is no excuse, other than turf interests, for such a disjointed system.

Finally, committees are only as good as the members who serve on them. Any changes the Joint Committee can make to ensure that members are limited in the number of committees and subcommittees will be a change worth making. Requiring attendance and ending proxy voting will add to committee effectiveness and increase the expertise of committee members.

The measures which I have outlined today meet the common-sense standard. I believe that adopting them as a package would help to focus the work that we do on the issues which we have been elected to address.

Testimony of The Honorable Frank Pallone, Jr.
Before The Joint Committee on the Organization of Congress
June 16, 1993

Mr. Chairman, I would like to thank you for the opportunity to appear before the Joint Committee today.

I am testifying to express my opposition to the elimination of the Committee on Merchant Marine and Fisheries. I understand that in discussions about the "reform" of Congress and the committee system, a proposal has arisen which would abolish Merchant Marine and Fisheries and transfer its responsibilities to a number of other existing committees.

I am a member of Merchant Marine and Fisheries Committee, and I believe that this proposal is a serious mistake. I fear that elimination of the Merchant Marine and Fisheries Committee would result in far less effective treatment of the issues now under its jurisdiction -- from oversight of the U.S. Coast Guard, to the responsible protection of wildlife and the marine environment, to crafting policies that are beneficial to America's fishing and shipping industries.

Other committee staff do not have comparable expertise on Merchant Marine and Fisheries issues, and I fear that scattering these issues among several other committees will result in a dilution of the focused attention they deserve. Without the Committee's expertise, institutional memory and, importantly, its focused jurisdiction over Coast Guard, fisheries, shipping, and other environmental and living resource issues, legislation dealing with these matters will suffer and oversight of the federal agencies concerned will slip. This is particularly true now, when our natural environment and maritime industry are facing unprecedented threats.

The freshmen members of the Merchant Marine and Fisheries Committee have suggested changing the name of the committee to the Committee on Marine Affairs and Environmental Policy. I think the proposed name better represents the actual jurisdiction of the committee. The Committee has produced legislation on everything from Antarctica to coastal wetlands; from African elephants to wild birds; from the National Environmental Policy Act to dolphin protection. Over the past decade, environmental and conservation issues have dominated the committee's agenda.

Legislation that currently is being considered by the committee this Congress includes the Endangered Species Act, revitalization of the domestic merchant marine fleet, the Clean Water Act, the Marine Mammal Protection Act, the Magnuson Act, and oversight on the Oil Protection Act. This should give you a good idea of the breadth of issues for which the committee is responsible.

I urge you to reject out of hand any proposal to abolish the Merchant Marine and Fisheries Committee.

Thank You.

STATEMENT BY
Rep. Steve Gunderson
Before the Joint Committee on the Organization of Congress
June, 16, 1993

Mr. Chairman, I'm pleased to have this opportunity to come before the committee and make a contribution to the very important work in which it is engaged.

Mr. Chairman, as part of this Committee's review of the organization of Congress, it is critical that consideration be given to addressing the growing perception, and indeed the fact, that more and more of Congress's work is being conducted behind closed doors. Dedication to open government, and to open and public debate of public policy issues, is a cornerstone of our Republic and of public faith in this institution. In order to avoid the risk of eroding that cornerstone, it is essential that this Committee review Congress's current policy on open hearings, and make recommendations for improving upon it.

As you know, current House Rules governing Open Committee Meetings requires that each meeting for the transaction of business -including mark-up sessions- be open to the public except when a majority of the committee present, by roll call vote, determines it should be closed. While the current Rules do not specifically spell out the purposes for which hearings and mark-ups can be closed, I believe, that those purposes should be

very strictly limited.

Mr. Chairman, I believe that most reasonable Americans can understand and accept that for reasons of national security, Congress must often conduct its business in privacy. The Committees on Armed Services and Intelligence must have wide latitude in which to exercise their best judgement on what can and cannot be discussed in open forum. Likewise, I believe people can understand the need to conduct preliminary investigations and hearings on matters of a personal nature -such as those which often come before the Committees on Official Conduct- in a private setting.

Unfortunately, the decision to close hearings is being made more and more frequently, and for an increasingly broad range of issues unrelated either to matters of national security or personal privacy. Currently, the two committees most likely to retreat behind closed doors to conduct what should properly be open public policy making are the House Ways and Means and Appropriations Committees -the Committees most directly involved in the raising and spending of taxpayers money.

In recent years, for example, we have seen the Ways and Means Committees retreat behind closed doors to debate and draft such critical legislation as the 1986 tax bill, the 1988 welfare reform bill, and most recently and most troubling, the 1994 reconciliation bill which raised the taxes of American citizens

and businesses by over \$300 billion. In addition, the Appropriations Subcommittees regularly close their doors to the public during the critical phases of their work. Members of the Committees argue that closed mark-up sessions are necessary so that they can effectively engage in free and full discussion while being protected from the "subtle and not so subtle" signals received from the representatives of special interests.

Mr. Chairman, I respectfully submit that protecting members from the "subtle signals" of lobbyists is not an adequate justification for closing critical aspects of the public policy making process to the public -not in a democracy which is and wants to remain the world's most open. I would also suggest that it is absolutely inconsistent with what Congress intended in 1973 when current House Rules on this issue were made. At that time, members referenced the Framers' belief that Congress's duty was to assure and to restore the people's confidence that the government was responsive. The Framers' put the burden on closing committee meetings and placed presumption fully on open meetings with assurance that "confidence in our government can only come about when people are able to observe and participate directly in the deliberative process."

Mr. Chairman, I believe the Committee needs to look very seriously into amending Congressional Rules to insure that the practices of the House more closely follow what I believe was originally intended, and what certainly is the desire of the

American people for open government. I think there are two models which the Committee might find useful in providing guidance. First, there is a Republican Conference proposal to specify that meetings and mark-ups can only be closed when they endanger national security or when they could degrade or incriminate any person. This, I believe, is much more consistent with Congressional intent and good public policy.

More importantly, I would suggest as the basis for broader guidance and review, that the Committee carefully review the State of Wisconsin's Open Meetings Law.

Wisconsin's Open Meetings Law is an ideal program because it recognizes that keeping citizens informed about governmental affairs is essential to maintaining a democratic form of government. The rules provide that every meeting of a governmental body, including both state and local agencies, boards, commissions, committees or councils, formal and informal, must be initiated, discussed and acted upon in open session unless a specific exemption to the rule applies. The chief presiding officer must announce the nature of the business to be considered during the closed session and the exemption under which the closed meeting is claimed to be authorized. A meeting must be preceded by public notice, including the date, time, place and subjects to be considered during a closed session. All votes are ascertained and recorded and there is no voting in a closed session. The laws require that a reasonable effort is

made to accommodate any media and most importantly, the law is strictly enforced through prosecution and court action. In Wisconsin, we have shown that a strong presumption in favor of open government can be consistent with efficient and effective public policy making.

In closing, I hope the Committee will realize the critical importance of our participation in the open government of our Republic. Public faith demands it. The current Rules are too ambiguous to meet the increasing demands placed on the various committees and public trust will bear the brunt of it. As you continue to review and reform House Rules, I urge you to pay close attention to Wisconsin's Open Meetings Laws as I feel it is an ideal model.

Thank you once again for allowing me the opportunity to speak to you about an issue I feel has overwhelming importance.

STATEMENT FOR CONGRESSMAN ALEX MCMILLAN
BEFORE THE JOINT COMMITTEE FOR THE ORGANIZATION OF CONGRESS
ON H.R. 2172, THE HEALTH CARE BUDGET ENFORCEMENT ACT OF 1993
JUNE 16, 1993

The 1992 debate about a constitutional amendment requiring a balanced budget demonstrated the importance of a disciplined procedure to achieve balance in the federal budget over the near future.

A budget in any family or business is a financial plan that reflects collective goals of the organization. Any government must have such a financial plan with enforcement built in it. Anything less is a scam on the public, Congress and the government management.

With each passing year, failure on the part of Congress to act exacerbates the deficit problem facing this nation. This year, with health care reform on the agenda, promises more of the same unless the budget laws are changed. Spending targets are fully accepted in business or any other entity. It is the essential element in any budget.

My bill, H.R. 2172, the Health Care Reform Budget Enforcement Act of 1993, grew out of Budget Committee hearings on the substance of the problem and how the budget process is currently skewed toward avoidance of any discussion on the mandatory programs in the federal budget even though they represent over 50% of the budget. Current law, strangely enough, almost encourages Congress to avoid making spending reduction or tax increase decisions on programs reflecting current consumption. Congress enacts and perpetuates entitlement programs which do not require annual reauthorization and appropriation as well as strict oversight. As a result, Congress continues to borrow massive amounts of money to fund these apparently "unmanageable" federal programs.

This Act is designed to address both the substance of the problem and the process, focus the debate on the areas of the budget that need to be addressed and provide spending targets for each specific category, and hence, deficit-reduction targets.

* This Act does not allow the deficit to exceed \$150 billion by 1998.

* This Act requires the President to submit a five-year budget plan to Congress which Congress may amend and adopt and send to the President to be signed into law. Failure to adopt a budget plan by a date certain will result in a continuing resolution at the prior year's levels, an absolute categorical freeze which constitutes an across-the-board freeze for the budget.

* This Act will require that budgets set categorical spending targets for discretionary and mandatory programs. Revenue projections are based on current January, 1993 Congressional Budget Office (CBO) economic assumptions and cost estimates. Any changes to spending targets must be made during the annual budget process.

* This Act will eliminate the practice of baseline budgeting where reductions from future increases are treated as "cuts" when, in actuality, most programs will continue to experience annual increases over the previous year.

* Authorization and appropriations committees will be instructed each year to meet spending targets and failure to reconcile will result in categorical sequester at current outlay levels.

* Spending targets are explicit in this Act. In general, they represent the reductions initiated by the Bush Administration of approximately 13% in real terms in the national security function which combines the defense and international affairs categories. Domestic discretionary programs are held to an absolute freeze in the aggregate under this Act, although spending priorities can and should be made by the specific authorization and appropriations committees to eliminate and reform certain programs to pay for increase in other programs. Increases in Medicare and Medicaid are held to the consumer price index (CPI) plus expected demographic changes over the next 7 years as a goal to achieve through health care reform due to take place later this year and in 1994. Other entitlement programs are targeted based on current CBO projections. Social Security is held harmless from this Act.

Targets for spending and deficits are presented in tables attached to this summary.

These spending targets, particularly those in the federal medical health programs, will be difficult to achieve. But the role of the authorization and appropriations committees of Congress is to exercise diligent oversight of federal spending programs and this Act will force Members of Congress on the committees of jurisdiction to make the fiscal decisions necessary to achieve these targets rather than abrogate such responsibility and allow spending to continue unchecked and the national debt to continue to explode. The House Republican budget alternative for FY 1994 identified \$93 billion of such policy decisions in the federal health programs and a list of other options, in the absence of health care reform, is attached.

The most difficult debate the 103rd Congress will have to resolve is health care reform. This Act will provide an enforceable guideline that is consistent with common sense and fiscal responsibility in which the health care debate can be reasonably debated and decided. This Act is consistent with the expressed goal of President Clinton and many Members of Congress that health care costs must be arrested before we can make any progress on solving the budget deficit.

This Act will circumscribe the health care debate so that policy decisions can be made in a rational manner to reduce or eliminate the cost factors that are now driving up health care costs at four times the rate of general inflation. To meet these spending target goals, it will be mandatory for Congress and the President to come to an agreement that does the following to find the resources necessary to provide more complete access to health insurance coverage and reduce the budget deficit:

1. Reform existing programs.
2. Eliminate programs that have out-lived their usefulness.
3. Alter the scope of certain existing programs.
4. Add such programs as necessary
and
5. Propose measures to raise the revenue to pay for what is spent
over the categorical spending target in any program on a pay-as-you-go basis.

This means that Congress no longer accepts past trends as prologue. Any outlays that will exceed the cost of living plus demographics must be specifically authorized and paid for. Some will say you can not exactly predict volume but volume is probably more predictable than any other cost estimate.

The benefit of forcing Congress to make these decisions on an annual basis is that the federal budget deficit will be on a predictable downward path not to exceed \$150 billion

by 1998 and the drain of high annual deficits and interest on existing national debt will begin to subside beginning in FY 1994, not four or five years from now.

Anything less than what is proposed in this Act is simply avoiding the basic reason why elected representatives are sent to Washington in the first place which is to make hard decisions on fiscal matters. Complex or not, the deficit problem is here with us and must be resolved.

THE HEALTH CARE REFORM BUDGET ENFORCEMENT ACT OF 1993
Executive Summary

The 1992 debate about a constitutional amendment requiring a balanced budget demonstrated the importance of a disciplined procedure to achieve balance in the federal budget over the near future.

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outlays that will exceed the cost of living plus demographics must be specifically authorized and paid for. Some will say you can not exactly predict volume but volume is probably more predictable than any other cost estimate.

The benefit of forcing Congress to make these decisions on an annual basis is that the federal budget deficit will be on a predictable downward path not to exceed \$150 billion by 1998 and the drain of high annual deficits and interest on existing national debt will begin to subside beginning in FY 1994, not four or five years from now.

Should Congress and the President do anything less than what is proposed in this Act is simply avoiding the basic reason why elected representatives are sent to Washington in the first place; to make hard decisions on fiscal matters. Complex or not, the deficit problem is here with us and must be resolved.

Other	2	3	3	3	3	4	4	4	4	4
Total Spending	1282	1408	1449	1471	1513	1578	1578	1628	1671	1707
Total Revenues	1054	1088	1143	1215	1291	1356	1414	1482	1540	1600
Target Deficit	-228	-320	-306	-256	-222	-181	-164	-146	-131	-107

NOTE:

1) All figures taken from CBO publication, Economic and Budget Outlook: Fiscal Years 1994-1998; January, 1993 edition

2) National Security figures are derived by combining defense and international spending targets.

-All mandatory figures, other than Medicare and Medicaid, are straight projections from the CBO publication, except for the 1999-2000 figures which are estimated from trend lines.

(2) Elimination of Baseline Budgeting: CBO and OMB will be instructed to present annual and semi-annual reports on a cash basis and the use of baseline for budget purposes will no longer be allowed. Instead, actual and target numbers will be used for performance measurement and forecasts.

(3) Requirement of the President to Submit Balanced Budget: Similar to the Spratt bill, the President's Budget must meet all discretionary, entitlement and revenue targets, achieve balance in 2000 and each year thereafter, and be voted upon by Congress.

Each annual budget will extend categorical targets for one additional year in the out-year so that five-year spending and revenue targets will always be expressed.

President may propose modifications in categorical targets in annual budget but the target deficit must remain the same for that year until balanced budget is achieved in 2000 and remain balanced thereafter.

(4) Requirement of Budget Committees to Report Balanced Budget: Budget resolutions must meet all discretionary, entitlement and revenue targets, and the deficit is not to exceed \$150 billion by 1998. After the budget is balanced, surpluses will be accrued to begin the paydown of the national debt until it is eliminated. All budget resolutions will be voted upon by Congress.

Each annual budget will extend categorical targets for one additional year in the out-year so that five-year spending and revenue targets will always be expressed.

Congress may propose modifications in categorical spending targets in annual budget resolution but the target deficit must remain the same

for that year until a balanced budget is achieved and surpluses can be generated to begin the paydown of the national debt.

(5) Enforcement:

A. Annual Budget Law: President must sign annual budget resolutions before appropriation and authorization may start. Deadline for passage is April 15 of each calendar year.

B. Discretionary Savings -- Appropriations. The discretionary savings will be achieved by Appropriations bills, limited by a spending target for National Security issues (defense plus international) and a spending target for Domestic Discretionary issues. Should the Appropriations process fail to yield sufficient spending savings to meet the targets for that year, a categorical PAYGO mechanism would be available to the Appropriations Committees of jurisdiction to recommend a tax increase to cover the amount of spending that exceeds the categorical spending target. Such a recommendation would be forwarded to the Ways and Means Committee which could either accept the recommendation or propose another measure for reconciliation. In the event that none of these revenue measures passes to cover the increased cost over the spending target for that year, across-the-board sequestration of all programs within each category, National Security and Domestic Discretionary, would take place.

C. Entitlement Savings -- The entitlement savings for each fiscal year as determined by this Act will be set by the annual budget resolution process. Each sub-category of means-tested and non-means-tested entitlement programs will be issued a spending target for that year's spending. Reconciliation instructions will call for each committee of jurisdiction to achieve specific savings to meet that year's targets. Should the process fail to yield sufficient spending savings to meet the targets for that year, a categorical PAYGO mechanism would be available to the appropriate committees of jurisdiction to recommend a tax increase to cover the amount of spending that exceeds the categorical spending target. Such a recommendation would be forwarded to the Ways and Means Committee which could either accept the recommendation or propose another measure for reconciliation. In the event that none of these revenue measures passes to cover the increased cost over the spending target for that year, across-the-board sequestration of all programs within each separate entitlement category would take place.

D. Sequestration -- Should the committees of jurisdiction not find the necessary spending reductions or reforms to meet the spending targets for each category or the categorical PAYGO process fail to yield the necessary revenues to meet the spending targets for each spending category, a specific sequester will be instituted on each individual spending category that failed to meet its particular spending target. No other spending category would be affected; only those categories that failed to yield the required spending reductions or specified reconciled categorical PAYGO revenues would be subject to the category-specific sequester.

(6) Investment and Growth: Investment or growth policies can be enacted if they are paid for by offering spending savings, or categorical PAYGO alternative revenue sources under any category any Member or Committee chooses. For example, if a Member wants to increase spending for transportation, he or she can offer a measure to reduce spending in other domestic discretionary programs under the domestic discretionary spending target for that year or propose a categorical PAYGO tax increase to cover the marginal increase in cost for the program or project that would put the domestic discretionary category over its target for that fiscal year.

-For tax cuts, measures may be introduced that reduce spending in any category to account for the lost revenue of the tax reduction or other taxes may be proposed to make up the lost revenue of the proposed tax cuts.

-Any savings below the targets not expended for other programs or for tax cuts will go toward reducing the deficit further for that fiscal year.

7). Any increase in revenue during the course of a fiscal year due to unexpectedly strong economic growth over and above the official CBO estimates at the time of passage of the budget resolution when signed by the president will be used to further reduce the budget deficit for that fiscal year, not to adjust the spending targets of the various spending categories.

8). Standing committees will be reformed according to the findings of the Joint Committee on the Organization of Congress so that Congress can more efficiently and effectively oversee the function of the programs. For example, a new Health Committee could be formed with total jurisdiction over all federal health programs, including Medicare and Medicaid and health care reform proposals. Such streamlining of the committees to conform more with the existing domestic and entitlement programs would put the responsibility squarely on the authorization committee of jurisdiction to meet the spending targets put forth by this Act.

10). This Act may be waived only by a 2/3's vote of the House and Senate which requires Presidential approval.

COMMENTS

The objective is to produce a process that will enforce a budget agreement. The above proposal has several merits going for it.

- a. It builds upon previously existing law in BEA.
- b. It would provide a critical legislative process to govern the health care reform debate in which Congress will engage over the next several years.

- c. It puts the tension for meeting the spending targets squarely on the committees of jurisdiction.
- d. It holds those programs harmless that are being authorized and appropriated in a responsible fashion.
- e. It does not have an automatic tax sequester similar to the Panetta proposal but rather offers the opportunity for Congress to consider such measures in the traditional manner.
- f. It requires the deficit not to exceed \$150 billion by 1998.
- g. It does not have any automatic or pre-agreed upon tax increase.
- h. It does not touch Social Security.

The positive aspect about subdividing the mandatory programs in this way is that it puts the focus on the programs themselves rather than lumping them all together as some sort of monolithic untouchable program. Congress and the public would be able to see where the problems are in the budget and make an educated vote about whether the programs can be reformed, certain programs should be declared obsolete or revenues should be raised to cover the excess spending over the spending targets.

Several examples to highlight the point. If current trends in agriculture hold constant over the five-year period, Farm Price Supports should be able to meet its responsibilities and stay within its spending target of roughly \$9 billion per year. (FY94, \$10B; FY95, \$9B; FY96, \$8B; FY97, \$9B; FY98, \$9B) If trends in Farm Price Supports remain true to projections and meets these targets, and agricultural policy is managed in a responsible way by the Agriculture Committee and the Appropriations subcommittee on agriculture, then Farm Price Supports should be held harmless from any sequester that may be brought on by excessive spending in any other major spending category mentioned above.

But if some unforeseen problem occurs in the farming areas of the country and Farm Price Supports are forced to spend over its annual spending target, then the committees of jurisdiction can do several things. They could reform the existing farm programs, repeal some of the program coverage or propose a tax increase to cover the additional costs in Farm Price Supports over that year's specific spending target. For example, if the case could be made that the tax increase is needed specifically for Farm Price Supports so that Americans can continue to have its current full selection of food products at a reasonably low price and keep farmers in business, then Congress and the people would have some parameters within which to make such a tradeoff decision. Currently, there is no connection between the need for new revenues and any specific government operation because, given the general public view, much of government spending is considered wasteful and unnecessary.

The way to flatten the growth rate in the two largest federal health care programs, Medicare and Medicaid, is to pass a comprehensive health care reform bill similar to the Action Now Health Care Reform Act of 1992 that would deal with the underlying cost factors now driving up costs in health care at roughly four times the rate of inflation. In order to meet the spending targets set out in this budget process

proposal, approximately \$320 billion of savings need to be found between FY 1994 and FY 1998.

In the recently introduced House Republican Budget Committee Budget Alternative for FY 1994, specific line item savings were proposed in Medicaid and Medicare that would save \$93 billion over the next five years or about 30% of the total savings that need to be achieved to meet these targets. With such line-item recommendations as a foundation for reducing the rate of growth in these two programs, it is reasonable to assume that a comprehensive health care reform bill, coupled with other specific proposals to deal with the structural problems underlying both programs, could and should achieve annual growth in both programs not to exceed the rate of growth in inflation, CPI, plus new demographics, or an average of approximately 5% annual increases each year.

The spending targets in this bill for Medicare and Medicaid assume health care reform will take place in the 103rd Congress. In fact, the spending targets in this bill should be used as a guide for the debate on health care reform since the goal of every health care reform proposal is to bring medical costs back more into line with the general rate of inflation that exists in the rest of the economy.

Suppose that the above targets are set at roughly the 5% annual increases for Medicare and Medicaid. The authorizing committees would have 4 choices to meet that year's spending target each year: 1) pass comprehensive health care reform to take the cost-drivers out of the system and allow medical cost inflation to fall back into line with the rest of the real world, 2) repeal certain provisions that have been expanded repeatedly over the past 10 years, usually with a time-bomb type of approach that has been used repeatedly in the past in reconciliation bills that increased outlays \$10 million in year 1, \$100 million in year 2, \$500 million in year 3 and \$1 billion in year 4, or 3) make specific line-item proposals that deal with the structural problems underlying both programs, or 4) recommend to Ways and Means that they pass a specific tax increase to pay for the excess cost of Medicaid over the cap because they are unable to resolve it on the spending side.

The key point is to couple real health care reform based on market principles with real deficit-reduction since they are inextricably tied together. The American people need to see a cogent plan to do both at the same time and holding federal health program expenditures to specific spending targets would force Congress to make the health policy decisions that are needed to reduce the upward pressure on medical costs.

In the case of Medicaid, suppose that reforms or program reductions or repeal were not achieved. Health and Environment would then be required under reconciliation instructions to recommend a categorical PAYGO tax increase to meet the spending overage. Suppose further that they recommended that taxes be raised on wealthy retirees with incomes over \$125,000 to pay for the overage. Then it would be up to the Ways and Means Committee to either accept that recommendation and include it in a reconciliation bill or find other ways to raise the

revenues necessary. Then it would still have to go through the Committee, the floor, the Senate and then the President before taking effect. And then, if the President vetoes the categorical PAYGO tax increase, the House and the Senate would have to mount a 2/3's majority override to pass the tax legislation into law. If the veto was sustained, then the sequester would take place but only on the category that failed to meet its spending target for that fiscal year.

Any Member who opposes tax increases would never have to vote to do so under this proposal. He or she could vote against any and all categorical PAYGO tax increases and say they were forcing Congress to spend less, not tax more.

The benefits of this approach are twofold. One, it narrows the focus of the debate for the American people to see exactly what the tradeoffs are for exceeding the targets in any of the 21 specific categories. Two, it puts the pressure on the authorizing committees to make the decisions they need to be making anyway rather than thinking there is a tremendous charge card out there that can continue to be run up higher all the time. Excessive spending in one area of the budget such as Medicaid, if contained in a global entitlement spending cap as has been suggested by some, would crowd out CCC, AFDC, WIC and everything else that has been growing at or below the rate of inflation, or not at all in many cases.

The Achilles' heel of the 1990 Budget Enforcement Agreement was the fact that the PAYGO mechanism was tied only to new entitlement programs, not existing entitlement programs. One only has to look at the explosive growth in Medicare and Medicaid to see the correlation with the large deficits for the next decade if we don't do anything to arrest the general medical cost inflation now. The lack of an effective PAYGO mechanism and categorical spending targets on existing entitlement programs has left out roughly 50% of annual federal spending from any sort of effective budgetary control.

It also has the added benefit of retaining the features of the current PAYGO program that has seemed to work quite well. If Medicaid costs were not reined in, Health and Environment would have to propose a specific tax hike to Ways and Means and take the political heat for that decision, not Ways and Means. And then assuming the tax hike passed Ways and Means, it would still have to pass Congress and be signed by the President. This is not an automatic tax increase like the Panetta tax sequester; it is just an extension of what currently is law today. It maintains the additional advantage of allowing or forcing Congress, specifically the House, to fulfill its constitutional obligation to raise revenues and plan and spend budgets.

This approach fully recognizes the insidious and destructive effects that our on-going budget deficits and ballooning federal debt has on the long-term economic well-being of our nation. It puts primary emphasis on the authorization committees to do their constitutional duty to more effectively manage the programs under their jurisdiction and make spending reductions and program reforms to get under the spending target for each fiscal year. It also recognizes that if such spending

decisions are not made, then the committees of jurisdiction should be forced to make the equally painful political decision of raising a specific tax to pay for specific program costs over the target so the American people can make a judgment for themselves whether or not the tax increase is necessary or if the committee had done its best job to ensure that the resources allocated to its jurisdiction had been spent efficiently or not.

Finally, this approach has been proven to work over the last 3 fiscal years in the three separate spending targets under domestic discretionary. If the targets were set for seven years on each of these 21 areas, based on existing trend lines and population eligibility, then the committees of Congress would be empowered to deal with each category more clearly without the threat of being held responsible for the failure of another committee to do its job. Set the targets for seven years to get the federal budget on a pathway toward balance and then require the committees to do their job and get us there.

103D CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. McMILLAN introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 to establish categorical spending targets and sequestration against those targets to balance the Federal budget by fiscal year 2000, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Budget Reform Act
5 of 1993".

1 categorical targets for discretionary appropriations and di-
2 rect spending.”.

3 **SEC. 102. REPORTING OF BALANCED BUDGETS.**

4 Section 301 of the Congressional Budget Act of 1974
5 is amended by inserting at the end the following new sub-
6 section:

7 “(j) **REPORTING OF BALANCED BUDGETS.**—Any
8 joint resolution on the budget for fiscal year 1994, 1995,
9 1996, 1997, 1998, 1999, or 2000 as reported by the Com-
10 mittee on the Budget of each House, shall set forth appro-
11 priate levels for the fiscal year beginning on October 1
12 of the calendar year in which it is reported and for each
13 of the 4 ensuing fiscal years for the matters described in
14 section 301(a) and for each categorical target set forth
15 in paragraphs (1) and (2) of section 601 that provides
16 for a balanced budget by fiscal year 2000 and for each
17 fiscal year thereafter. Any joint resolution on the budget
18 for a fiscal year after fiscal year 2000, as reported by the
19 Committee on the Budget of each House, shall set forth
20 appropriate levels for the fiscal year beginning on October
21 1 of the calendar year in which it is reported and for each
22 of the 4 ensuing fiscal years for the matters described in
23 section 301(a) and set forth appropriate categorical tar-
24 gets for discretionary appropriations and direct spending

5

1 budget submitted by the President pursuant to sec-
2 tion 1105(g) of title 31, United States Code, as soon
3 as practicable after its submission.”.

4 **SEC. 104. PROCEDURE IN THE SENATE.**

5 Section 305(b) of the Congressional Budget Act of
6 1974 is amended by inserting at the end the following:

7 “(7) Notwithstanding any other rule, it shall al-
8 ways be in order in the Senate to consider an
9 amendment to a joint resolution on the budget for
10 a fiscal year comprising the text of any budget sub-
11 mitted by the President for that fiscal year as de-
12 scribed in section 1105(g) of title 31, United States
13 Code.”.

14 **TITLE II—JOINT BUDGET**
15 **RESOLUTIONS.**

16 **SEC. 201. AMENDMENTS TO THE BUDGET ACT TO CHANGE**
17 **CONCURRENT BUDGET RESOLUTIONS INTO**
18 **JOINT BUDGET RESOLUTIONS.**

19 (a) **TABLE OF CONTENTS.**—The table of contents set
20 forth in section 1(b) of the Congressional Budget and Im-
21 poundment Control Act of 1974 is amended by striking
22 “concurrent” each place it occurs therein and by inserting
23 “joint” and by striking “Concurrent” and by inserting
24 “Joint” in the item relating to section 303.

25 (b) **DEFINITIONS.**—

1 representatives are amended by striking "concurrent" each
2 place it appears therein and by inserting "joint".

3 (b) RULE XXIII.—Clause 8 of rule XXIII of the
4 Rules of the House of Representatives is amended by
5 striking "concurrent" each place it appears therein and
6 by inserting "joint".

7 (c) RULE XLIX.—Rule XLIX of the Rules of the
8 House of Representatives is repealed.

9 SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS TO
10 THE DEFICIT CONTROL ACT OF 1985.

11 (a) SECTION 254.—Section 254(b)(2)(A) of the Defi-
12 cit Control Act of 1985 is amended by striking "concur-
13 rent" and by inserting "joint".

14 (b) SECTION 257.—Section 257(3) of the Deficit
15 Control Act of 1985 is amended by striking "concurrent"
16 and by inserting "joint".

17 SEC. 204. ESTABLISHMENT OF NEW POINT OF ORDER.

18 Section 301 of the Congressional Budget Act of 1974
19 (as amended by section 102) is amended by adding at the
20 end the following new subsection:

21 "(k)(1) It shall not be in order in the House of Rep-
22 resentatives or the Senate to consider any appropriation
23 or authorizing legislation for a fiscal year covered by a
24 joint resolution on the budget before that joint resolution
25 is enacted.

"ENTITLEMENT TARGETS—Continued

(in billions of dollars)

	1994	1995	1996	1997	1998	1999	2000
Other	3	3	4	4	4	4	4
Total mandatory (excluding social security)	479	491	498	526	546	565	581

1 (b) DISCRETIONARY SPENDING TARGET.—Section
 2 601(a)(2) of the Congressional Budget Act of 1974 is
 3 amended to read as follows:

4 “(2) DISCRETIONARY SPENDING TARGET.—The
 5 term ‘discretionary spending target’ means—

Fiscal Year	Domestic targets (in bil- lions of dollars)	National security targets (in billions of dollars)
1994	238	293
1995	234	287
1996	234	287
1997	234	287
1998	234	287
1999	234	287
2000	234	287

6 (c) ADJUSTMENTS TO DISCRETIONARY SPENDING
 7 TARGETS.—Section 251(b) of the Balanced Budget and
 8 Emergency Deficit Control Act of 1985 is amended to
 9 read as follows:

10 “(b) ADJUSTMENTS TO DISCRETIONARY SPENDING
 11 TARGETS.—Whenever appropriate, adjustments to the
 12 discretionary spending targets (and to those targets as cu-
 13 mulatively adjusted) for one or more fiscal years shall be
 14 made to reflect the following:

15 “(1) CHANGES IN CONCEPTS.—For any fiscal
 16 year, the adjustments produced by any change in

1 level of year-over-year inflation measured for the fis-
2 cal year immediately preceding the current year, and
3 (ii) the applicable estimated level for that year set
4 forth below:

5 For 1992, 1.030.

6 For 1993, 1.031.

7 For 1994, 1.027.

8 For 1995, 1.027.

9 For 1996, 1.027.

10 Inflation shall be measured by the average of the es-
11 timated consumer price index for all urban consum-
12 ers for a fiscal year divided by the average index for
13 the prior fiscal year.

14 “(3) EXPIRING HOUSING CONTRACTS.—For
15 each budget year through 2000, the adjustment
16 shall be the amount of new budget authority needed
17 to renew expiring multiyear subsidized housing con-
18 tracts or provide contracts to replace units lost due
19 to prepayments, with the per-contract renewal/re-
20 placement cost equal to the average current-year
21 cost of renewal or replacement contracts.

22 “(4) EMERGENCIES.—If for any fiscal year ap-
23 propriations for discretionary accounts are enacted
24 that are designated as emergency requirements by
25 statute, the adjustment shall be the amount of those

1 (e) REVENUE SHORTFALL POINT OF ORDER.—Sec-
 2 tion 253 of the Balanced Budget and Emergency Deficit
 3 Control Act of 1985 is amended to read as follows:

4 "SEC. 253. REVENUE SHORTFALL POINT OF ORDER.

5 "(a) POINT OF ORDER.—It shall not be in order in
 6 the House of Representatives or the Senate to consider
 7 any bill or joint resolution, or any conference report there-
 8 on or amendment thereto, reducing revenues for any fiscal
 9 year through fiscal year 2000 unless it also contains an
 10 amendment to section 601(a)(1) or 601(a)(2) of the Con-
 11 gressional Budget Act of 1974 to reduce any combination
 12 of entitlement targets or discretionary spending targets in
 13 order to make that bill, joint resolution, conference report,
 14 or amendment deficit-neutral for each such fiscal year.

15 "(b) WAIVER.—The point or order set forth in para-
 16 graph (1) may only be waived by an affirmative vote of
 17 not less than two-thirds of those voting, a quorum being
 18 present."

19 SEC. 302. LIMITATION ON DIRECT SPENDING.

20 (a) LIMITATION ON DIRECT SPENDING.—Section
 21 252 of the Balanced Budget and Emergency Deficit Con-
 22 trol Act of 1985 is amended to read as follows:

23 "SEC. 252. LIMITATION ON DIRECT SPENDING.

24 "(a) PERMANENT SEQUESTRATION OF DIRECT
 25 SPENDING.—

15

1 “(c) RECONCILIATION PROCESS TO AVOID SEQUE-
2 TRATION.—Whenever a committee of the House or Senate
3 believes that a sequestration would be necessary under this
4 section to eliminate a budget-year breach in any direct
5 spending category as a result of the enactment of any Act
6 under its jurisdiction, that committee may forward a re-
7 port to the Committee on Ways and Means or the Commit-
8 tee on Finance, as the case may be, recommending a reve-
9 nue increase to cover the shortfall. If such a revenue in-
10 crease measure of sufficient size to cover the shortfall is
11 enacted into law during that session of Congress, then no
12 categorical sequestration may occur under this section as
13 a result of that Act.”.

14 SEC. 303. EXEMPT PROGRAMS AND ACTIVITIES.

15 (a) EXEMPTIONS.—Section 255 of the Balanced
16 Budget and Emergency Deficit Control Act of 1985 is
17 amended to read as follows:

18 “SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

19 “(a) SOCIAL SECURITY BENEFITS.—Benefits payable
20 under the old-age, survivors, and disability insurance pro-
21 gram established under title II of the Social Security Act
22 shall be exempt from reduction from any order issued
23 under this part.

1 601(a)(2) of the Congressional Budget Act of
2 1974.

3 Discretionary appropriations in the domestic cat-
4 egory and in the national security (defense and
5 international) category and accounts in the 19 direct
6 spending categories referred to in the preceding sen-
7 tence shall be those so designated in the joint state-
8 ment of managers accompanying this Act. New ac-
9 counts or activities shall be categorized in con-
10 sultation with the Committees on Appropriations
11 and the Budget of the House of Representatives and
12 the Senate.”.

13 (b) DEFINITION OF BUDGETARY RESOURCES.—Sec-
14 tion 250(c)(6)(B) of the Balanced Budget and Emergency
15 Deficit Control Act of 1985 is amended by striking “or
16 1995” and inserting “1995, 1996, 1997, 1998, 1999, or
17 2000”.

18 (c) ENFORCING DISCRETIONARY SPENDING TAR-
19 GETS.—Section 251 of the Balanced Budget and Emer-
20 gency Deficit Control Act of 1985 is amended—

21 (1) in subsection (a), by striking “and section
22 253” and by striking “1995” in its side heading and
23 inserting “2000”;

1 (C) by striking paragraph (4) of subsection (d);
2 and

3 (3)(A) in subsection (g)(2)(A), by striking
4 "1995" and inserting "2000"; and

5 (B) by amending paragraph (3) of subsection
6 (g) to read as follows:

7 "(3) DIRECT SPENDING SEQUESTRATION RE-
8 PORTS.—The final reports shall set forth estimates
9 for each of the following:

10 "(A) For the current year and each sub-
11 sequent year through 2000 the applicable direct
12 spending targets for each category.

13 "(B) For the current year and the budget
14 year the estimated new budget authority and
15 outlays for each category and the breach, if
16 any, in each category.

17 "(C) For each category for which a seques-
18 tration is required, the sequestration percent-
19 ages necessary to achieve the required reduc-
20 tion.

21 "(D) For the budget year, for each ac-
22 count to be sequestered, estimates of the base-
23 line level of sequesterable budgetary resources
24 and resulting outlays and the amount of budg-

1 (c)5-YEAR BUDGET RESOLUTIONS.—Section 606 of
2 the Congressional Budget Act of 1974 is amended—

3 (1) in subsection (a), by striking “or 1995” and
4 inserting “1995, 1996, 1997, 1998, 1999, or 2000”;
5 and

6 (2) in subsection (d), by striking “and 1995”
7 and inserting “1995, 1996, 1997, 1998, 1999, and
8 2000”.

9 (d) EFFECTIVE DATE.—Section 607 of the Congress-
10 sional Budget Act of 1974 is amended by striking “1995”
11 and inserting “2000”.

12 TITLE IV—THE BUDGET 13 BASELINE

14 SEC. 401. THE PRESIDENT'S BUDGET.

15 Paragraph (5) of section 1105(a) of title 31, United
16 States Code, is amended to read as follows:

17 “(5) except as provided in subsection (b) of this
18 section—

19 “(A) estimated expenditures and proposed
20 appropriations for each function and
21 subfunction in the current fiscal year;

22 “(B) estimated expenditures and proposed
23 appropriations the President decides are nec-
24 essary to support the Government for each

1 fiscal years along with the proposed increase or de-
2 crease of spending in percentage terms for each
3 function and subfunction;

4 “(3) information, data, and comparisons indi-
5 cating the manner in which and the basis on which,
6 the committee determined each of the matters set
7 forth in the joint resolution, including information
8 on outlays for the current fiscal year and the deci-
9 sions reached to set funding for the subsequent fis-
10 cal years;”;

11 (3) inserting “and” after the semicolon in para-
12 graph (7);

13 (4) striking paragraph (8); and

14 (5) redesignating paragraph (9) as paragraph
15 (8).

16 **SEC. 403. CONGRESSIONAL BUDGET OFFICE REPORT TO**
17 **COMMITTEES.**

18 The first sentence of section 202(f)(1) of the Con-
19 gressional Budget Act of 1974 is amended to read as fol-
20 lows: “On or before February 15 of each year, the Direc-
21 tor shall submit to the Committees on the Budget of the
22 House of Representatives and the Senate a report, for the
23 fiscal year commencing on October 1 of that year, with
24 respect to fiscal policy, including (A) estimated budget
25 outlays in all functions and subfunctions for appropriated

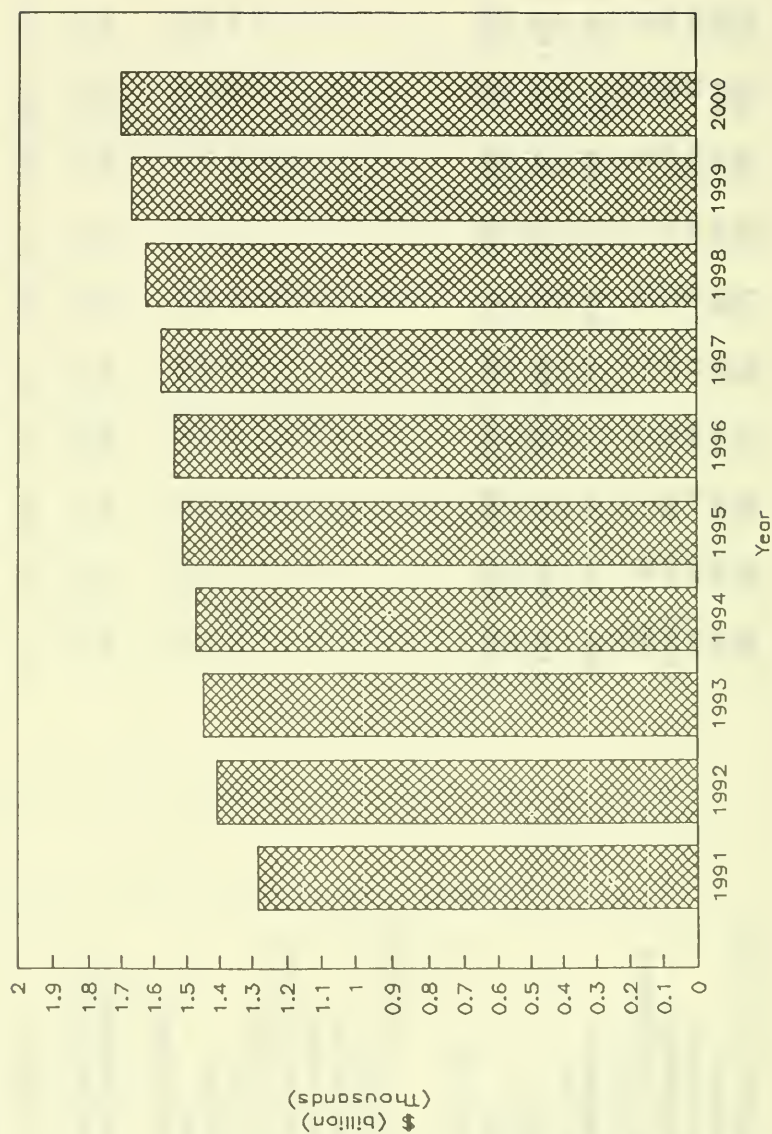
Budget Proposal

March 23, 1993

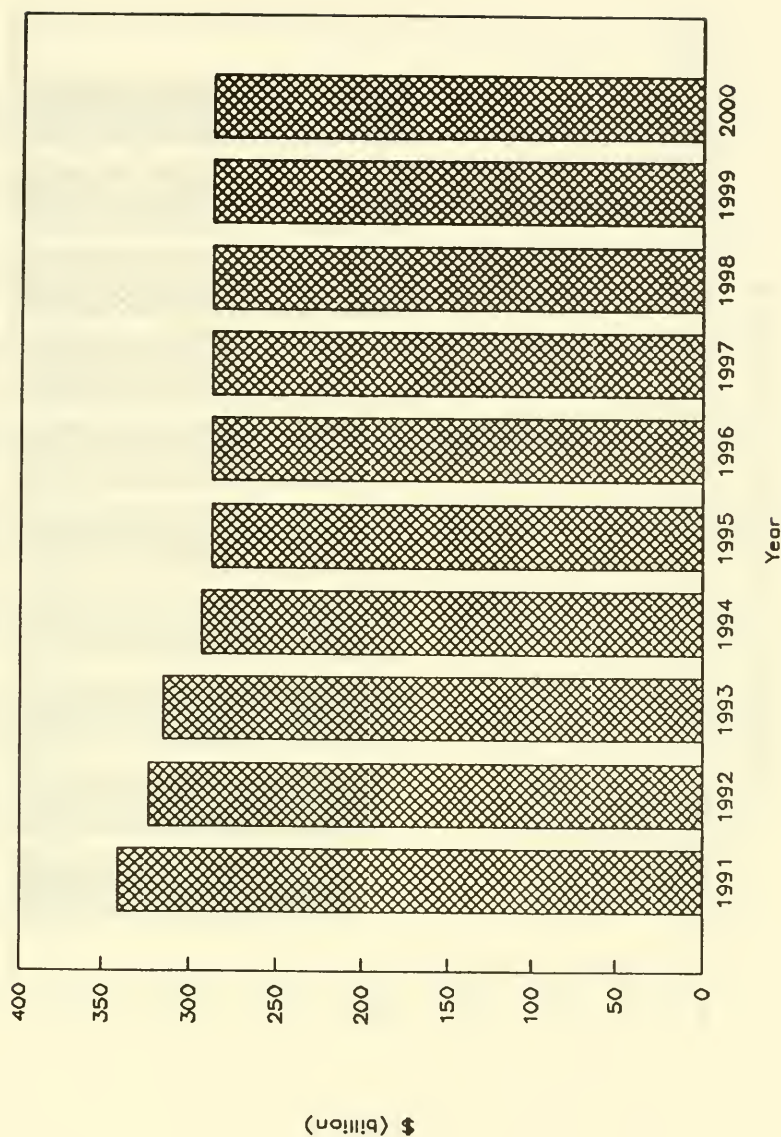
Target Categories	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
National Security (Def & Int'l)	340	323	315	293	287	287	287	287	287	287
Domestic Discretionary	195	214	232	228	234	234	234	234	234	234
(non-means-tested)										
Medicare	114	130	146	154	164	170	176	182	187	193
Fed.Civ.Retire.	37	37	39	37	39	42	44	46	48	50
Military retire.	23	24	26	27	28	29	31	32	33	35
Other Retire./Disability	4	5	5	5	5	5	5	5	5	5
Unemployment Compensation	25	37	32	26	25	25	25	25	25	25
Veterans' Benefits	14	16	16	18	17	16	18	18	18	18
Farm Price Supports	10	10	12	10	9	8	9	9	9	9
Social Services	6	5	6	6	5	5	5	5	5	5
Credit Reform Liquidating Acct.	0	8	5	2	-2	-8	-6	-7	-1	-1
Other	11	12	12	17	16	14	16	17	17	17
(means-tested)										
Medicaid	53	68	80	85	90	95	100	105	110	115
Food Stamps	20	23	24	24	24	24	25	26	28	27
SSI	15	28	19	24	24	24	28	30	30	30
Family Support	14	16	17	18	18	19	19	20	20	20
Veterans' Pensions	4	4	4	3	3	2	2	3	3	3
Child Nutrition	6	6	6	7	7	8	8	9	9	9
EITC	5	8	9	10	13	13	14	14	14	14
Stafford Loans	5	2	3	3	3	3	3	3	3	3
Other	2	3	3	3	3	4	4	4	4	4
Total Mandatory (ex.SS & RTC)	368	442	464	479	491	498	526	546	565	581

Interest	195	200	198	210	227	241	253	264	272	279
Social Security	267	285	302	319	335	351	368	385	403	420
Deposit Insurance	66	13	3	10	11	(1)	(14)	(10)	(9)	(10)
Off-setting Receipts	(106)	(64)	(65)	(68)	(72)	(73)	(76)	(78)	(81)	(84)
Desert Storm Contributions	(43)	(5)	0	0	0	0	0	0	0	0
Total Spending	1282	1408	1449	1471	1513	1537	1578	1628	1671	1707
Revenues	1,054	1,088	1,143	1,215	1,291	1,356	1,414	1,482	1,540	1,600
DEFICIT	(228)	(320)	(306)	(256)	(222)	(181)	(164)	(146)	(131)	(107)

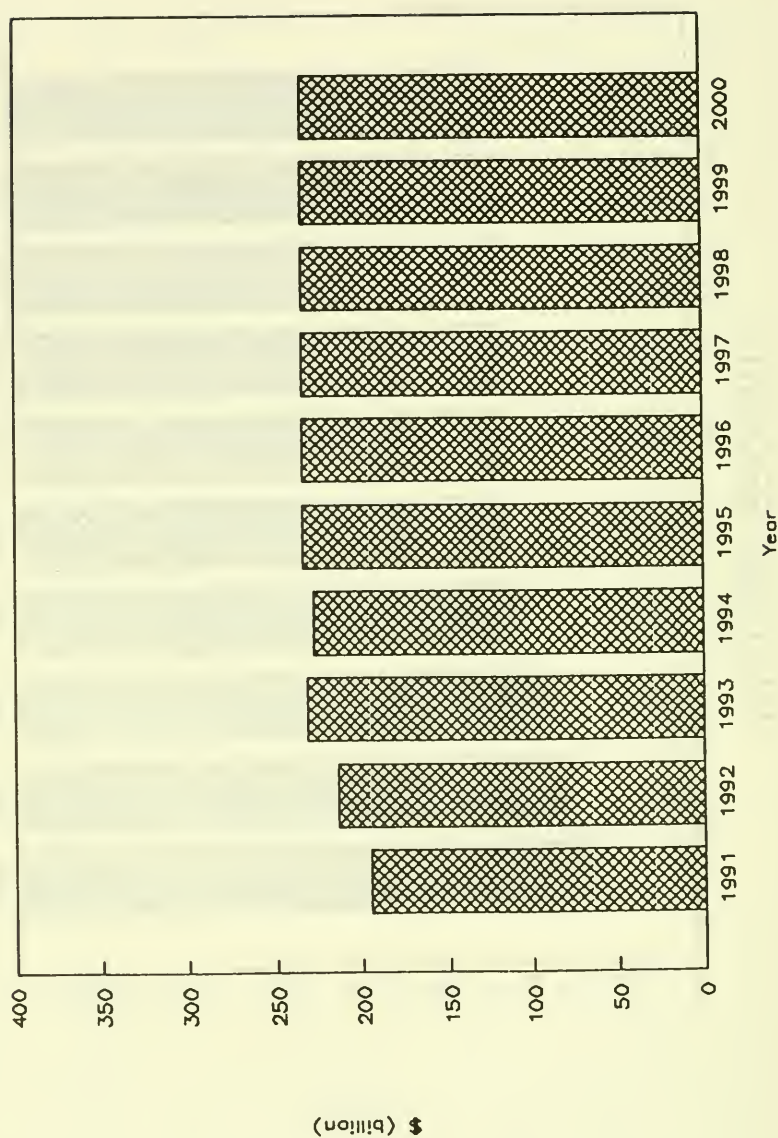
TOTAL FEDERAL SPENDING



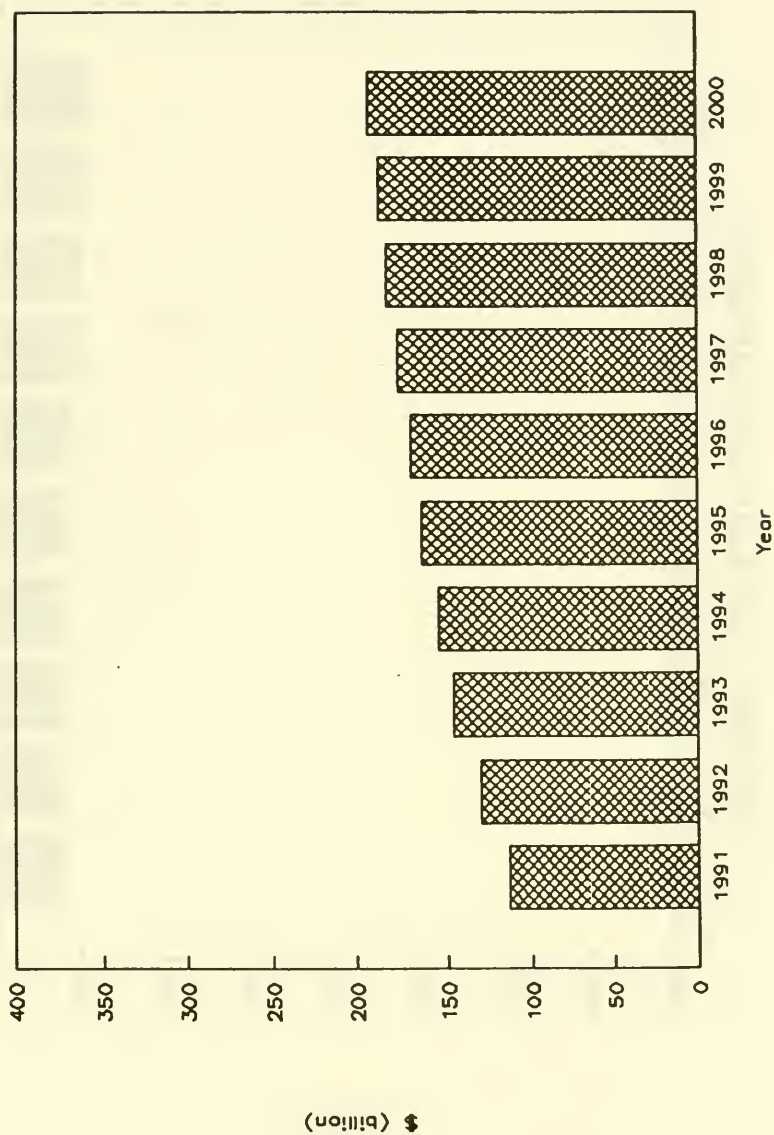
NATIONAL SECURITY



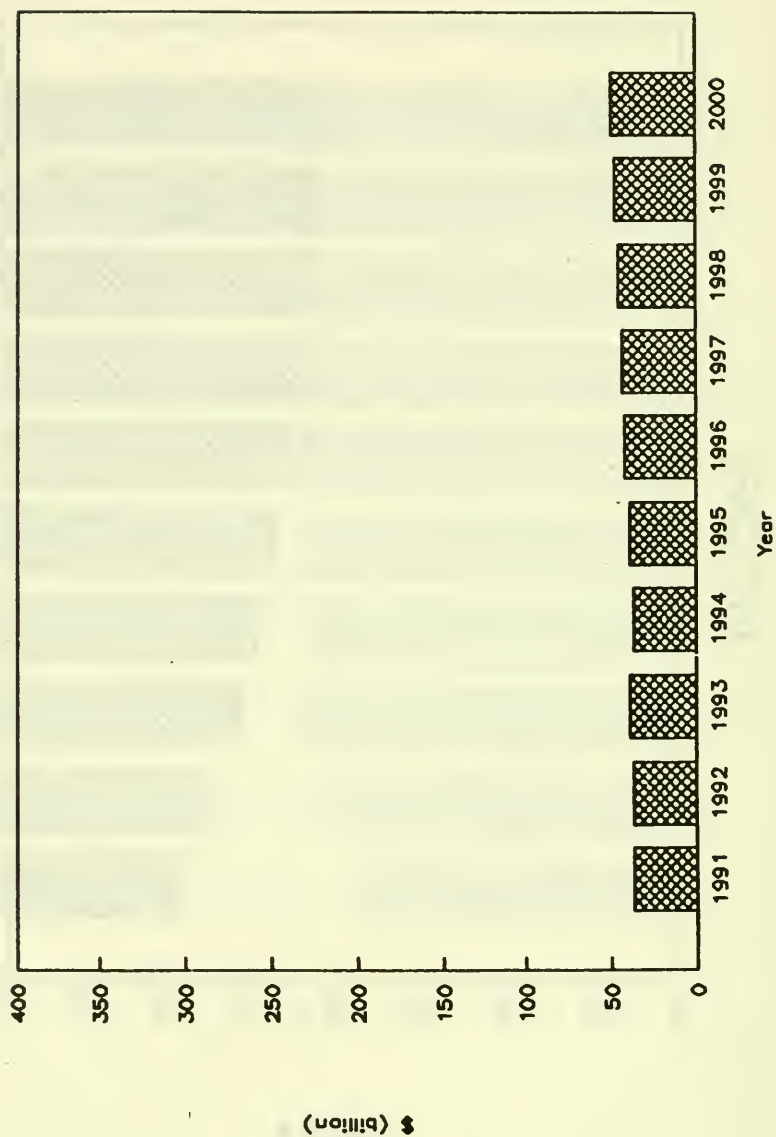
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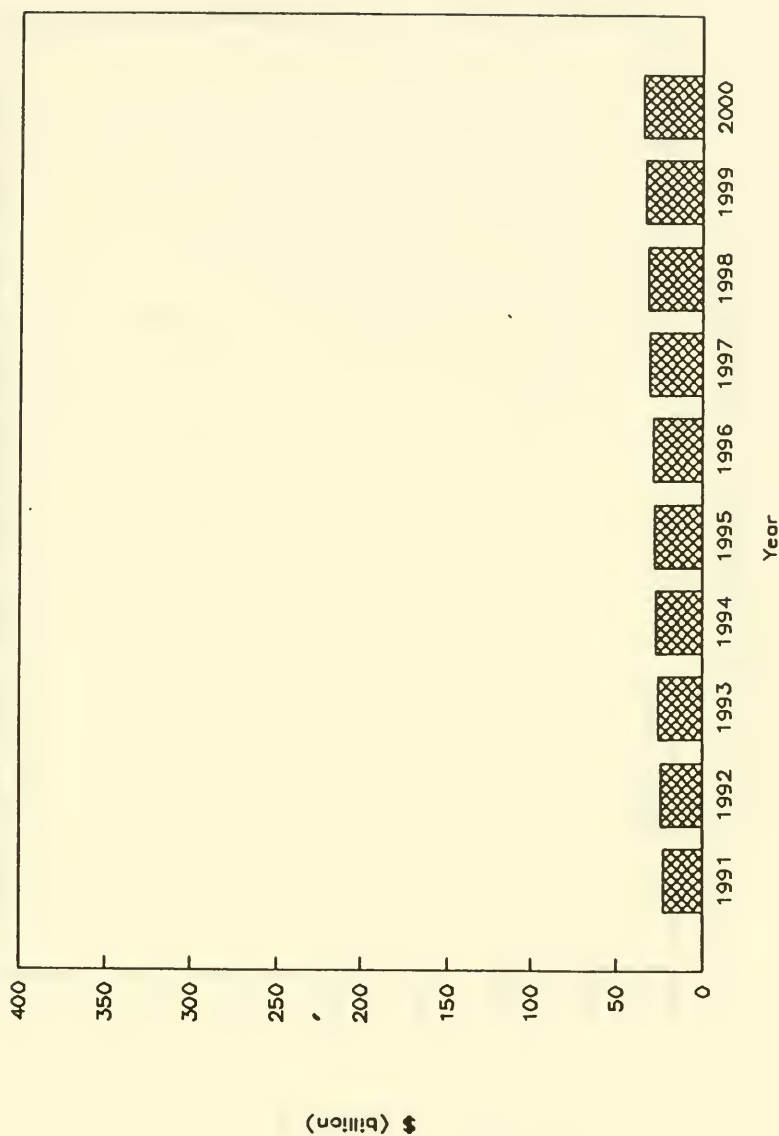
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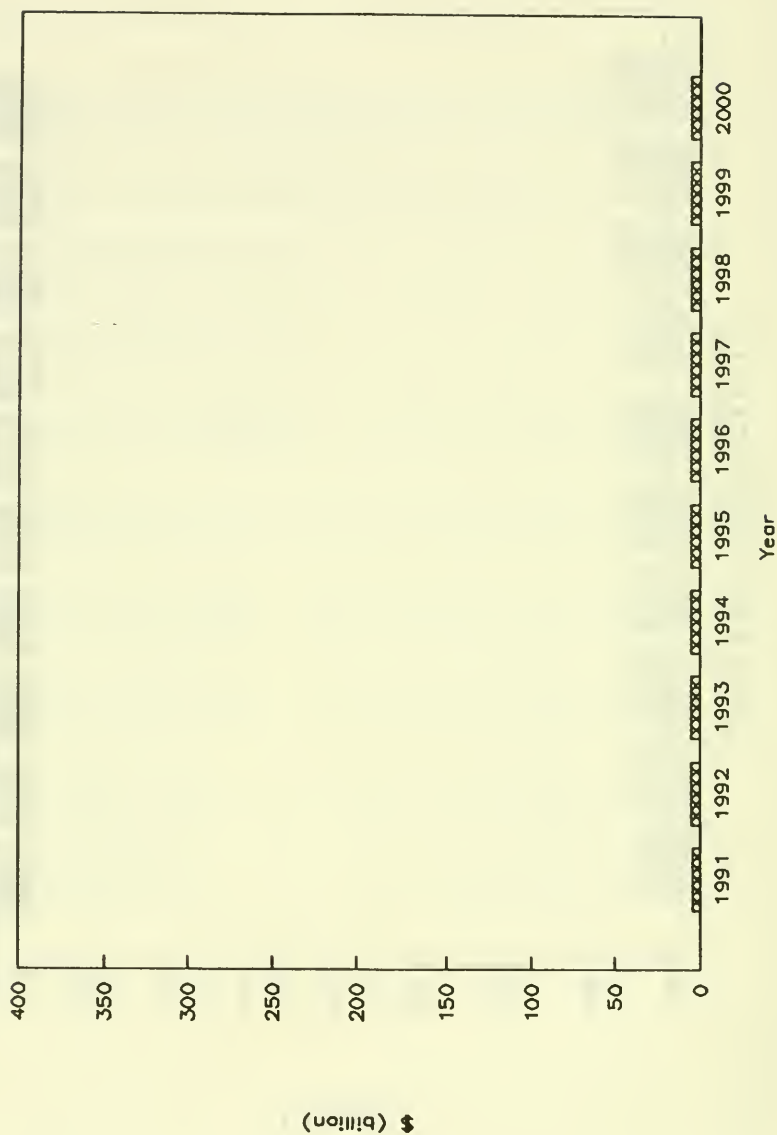
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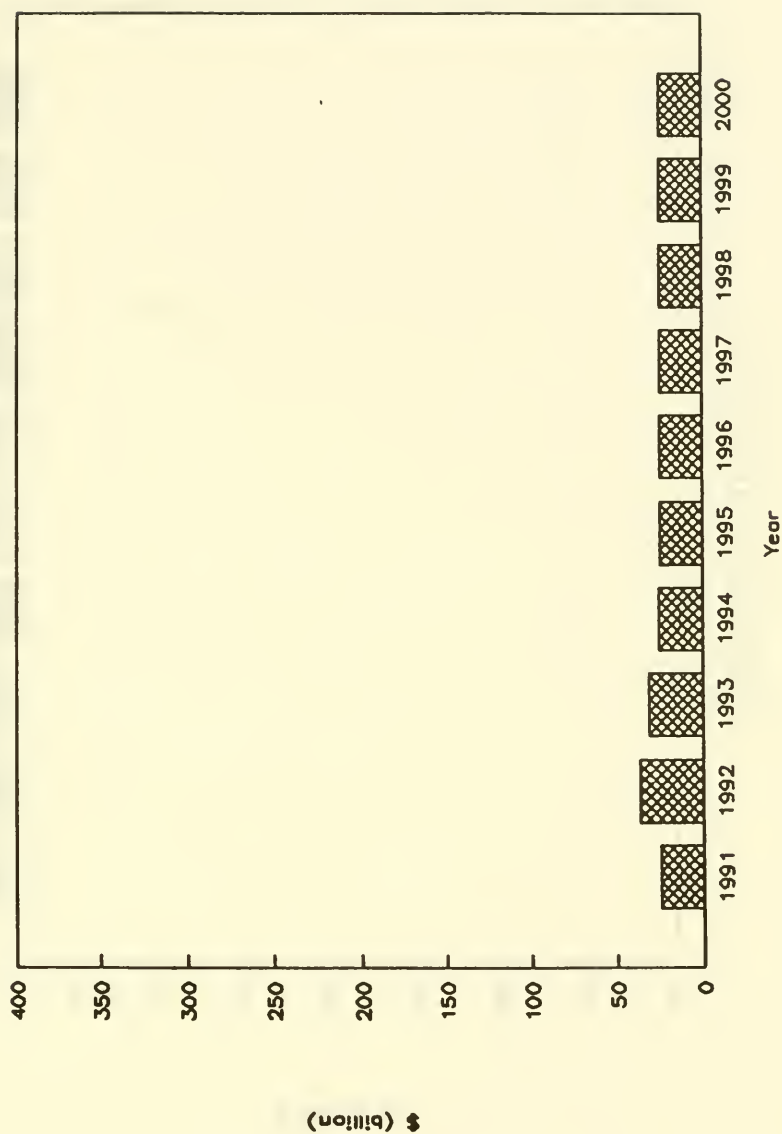
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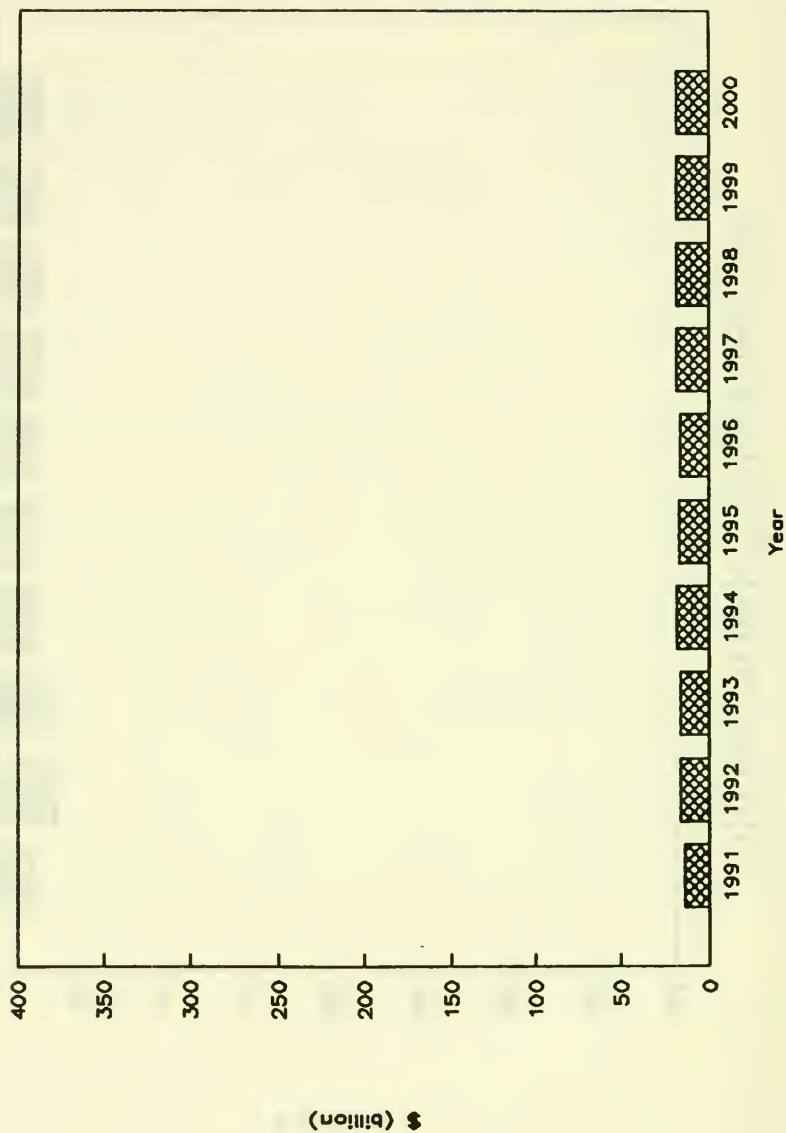
OTHER RETIREMENT/DISABILITY



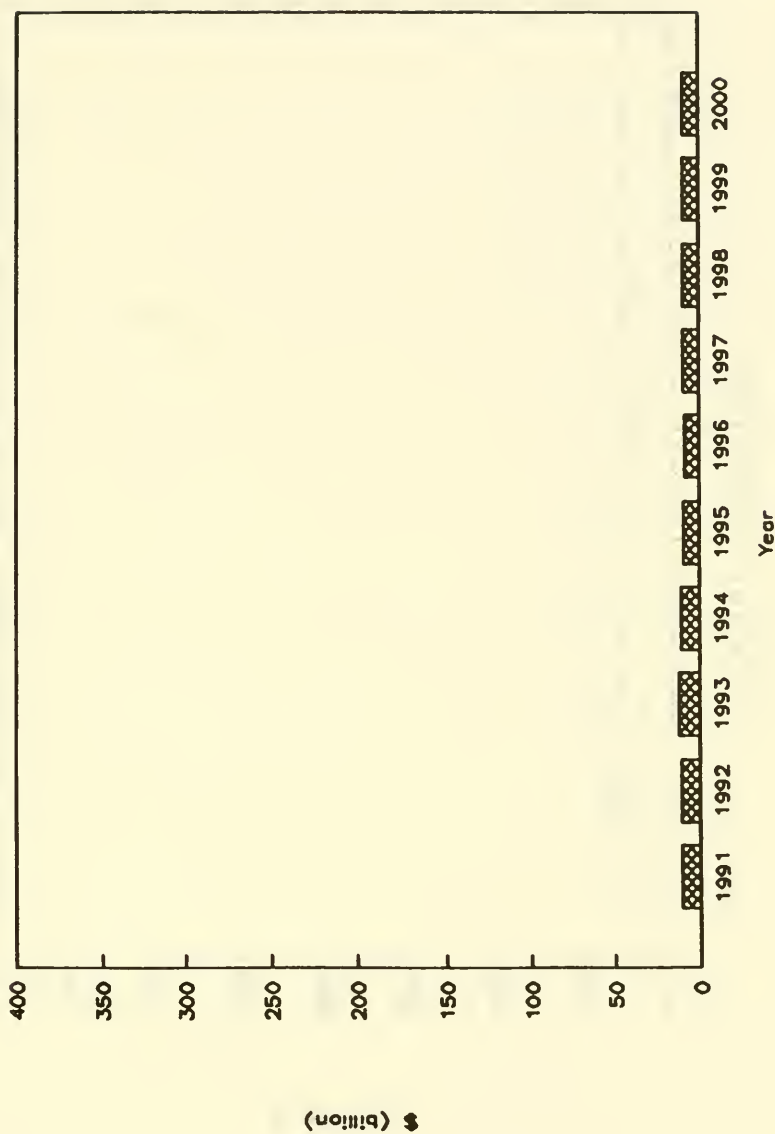
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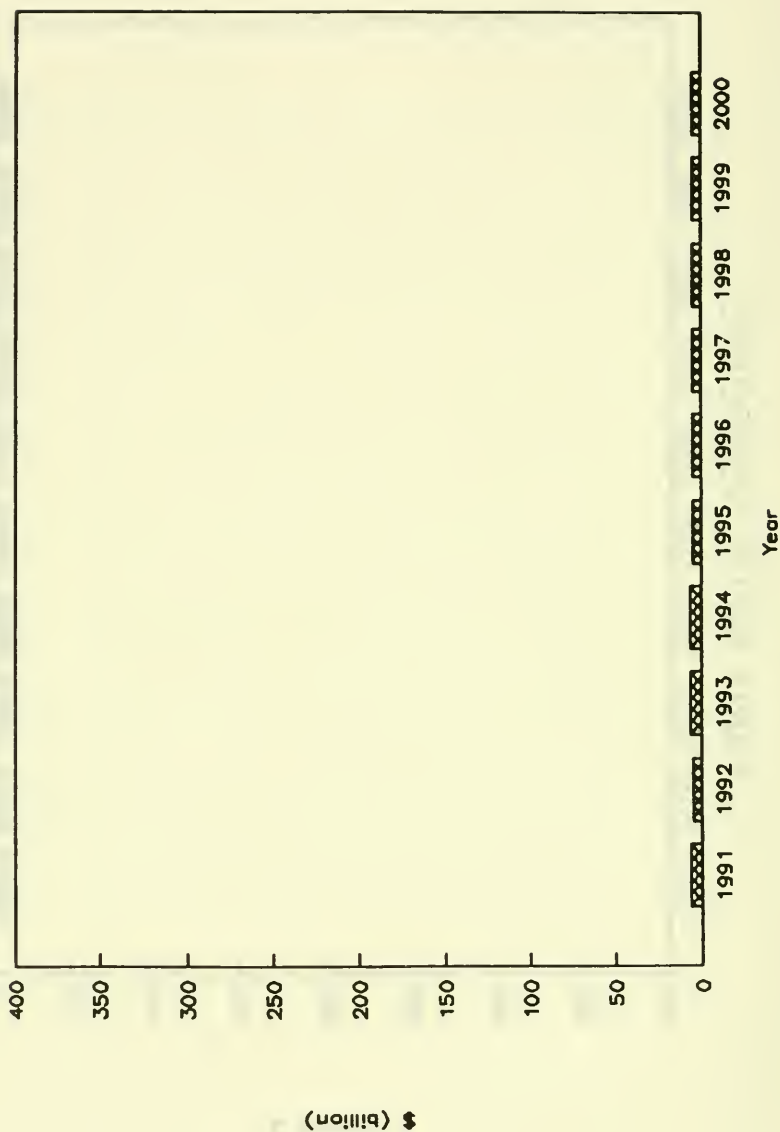
VETERANS BENEFITS



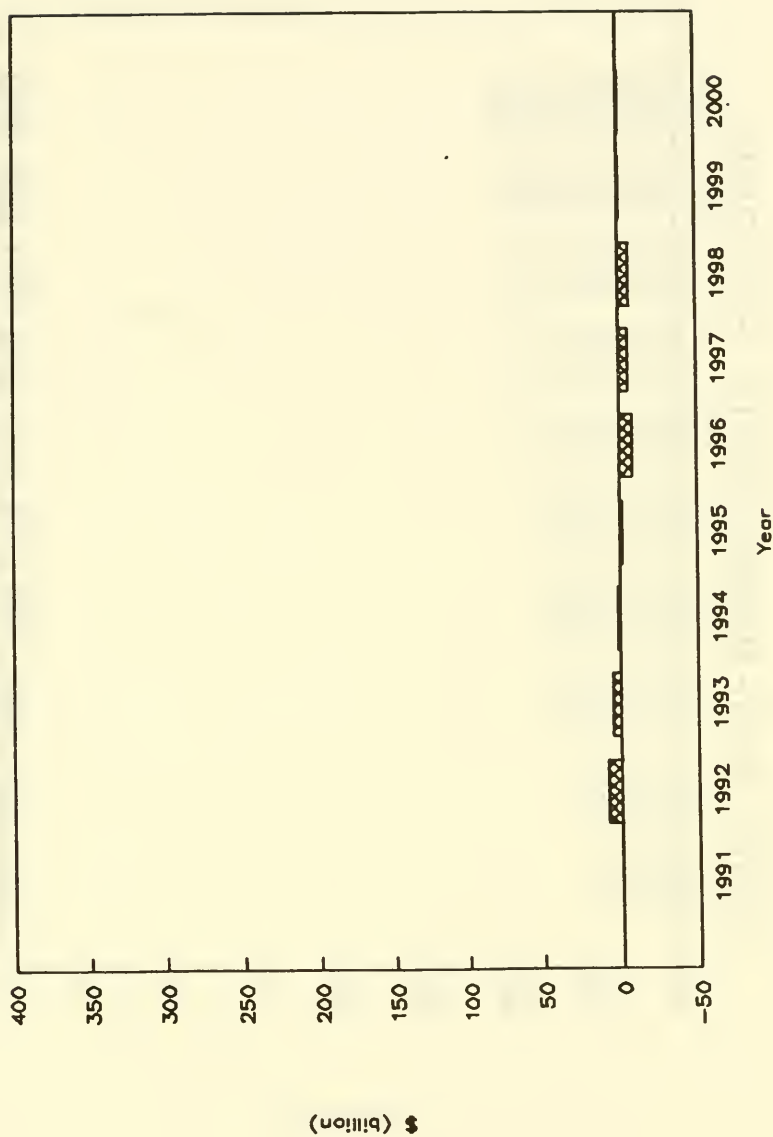
FARM PRICE SUPPORTS



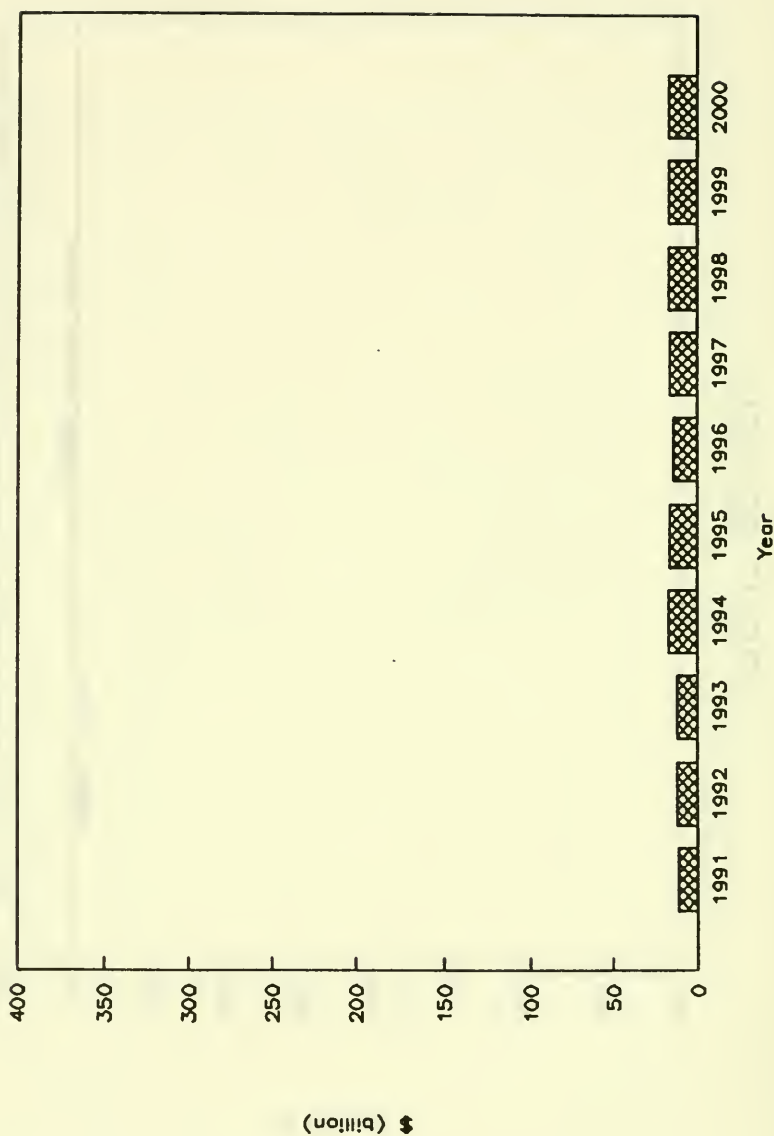
SOCIAL SERVICES



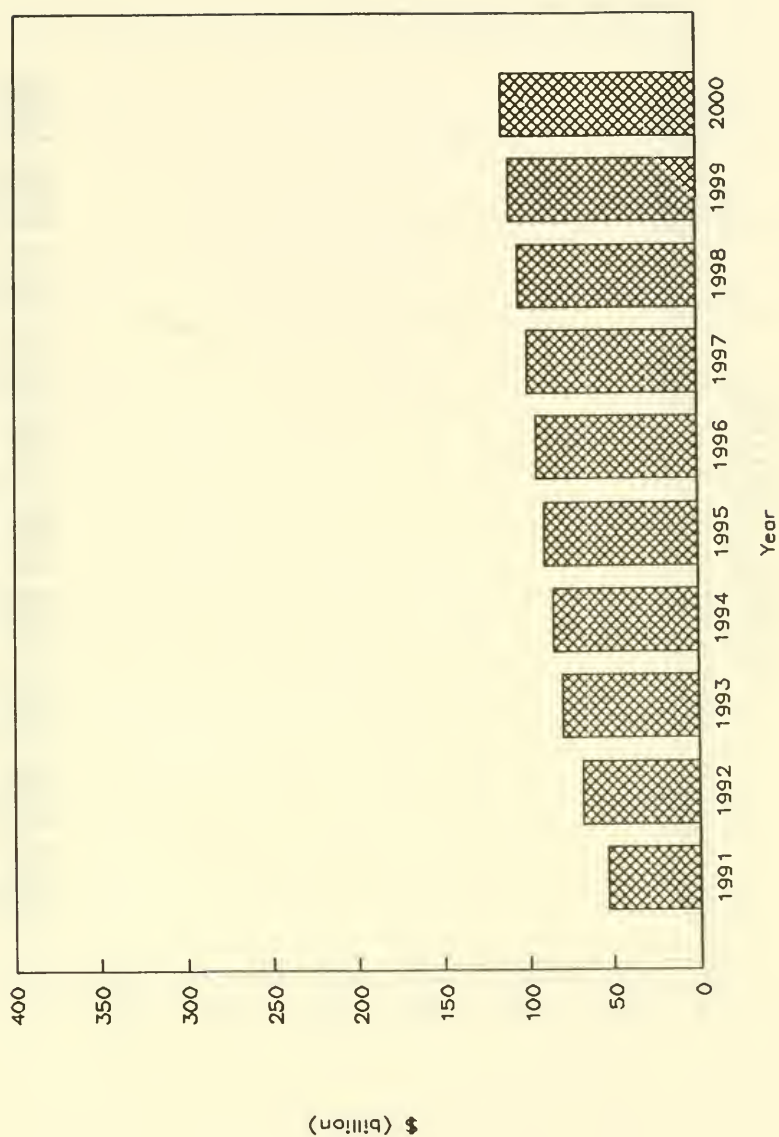
CREDIT REFORM



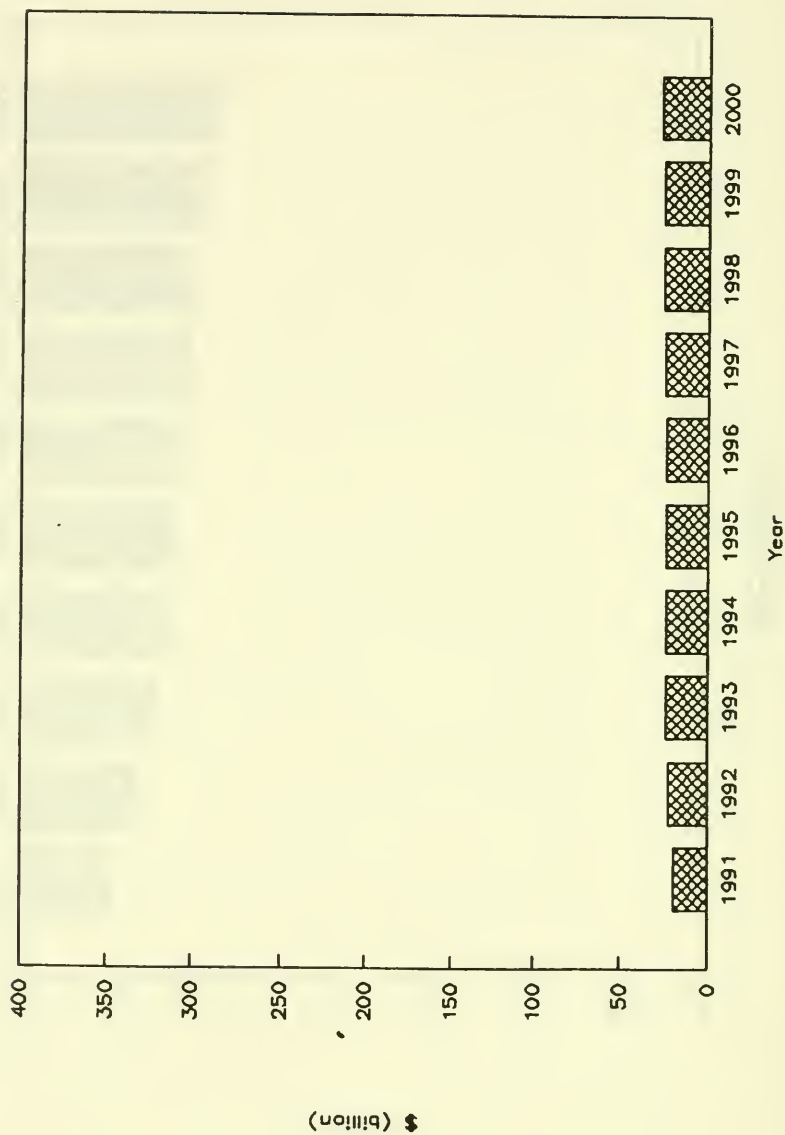
OTHER NON-MEANS TESTED PROGRAMS



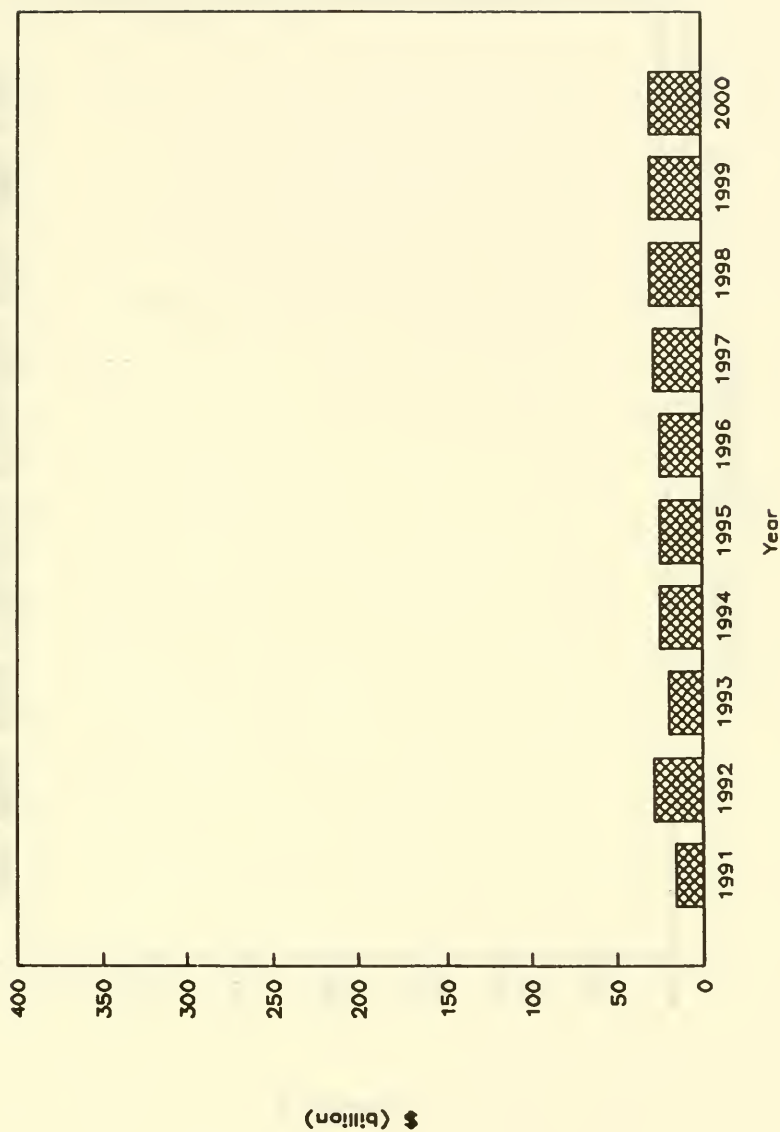
MEDICAID



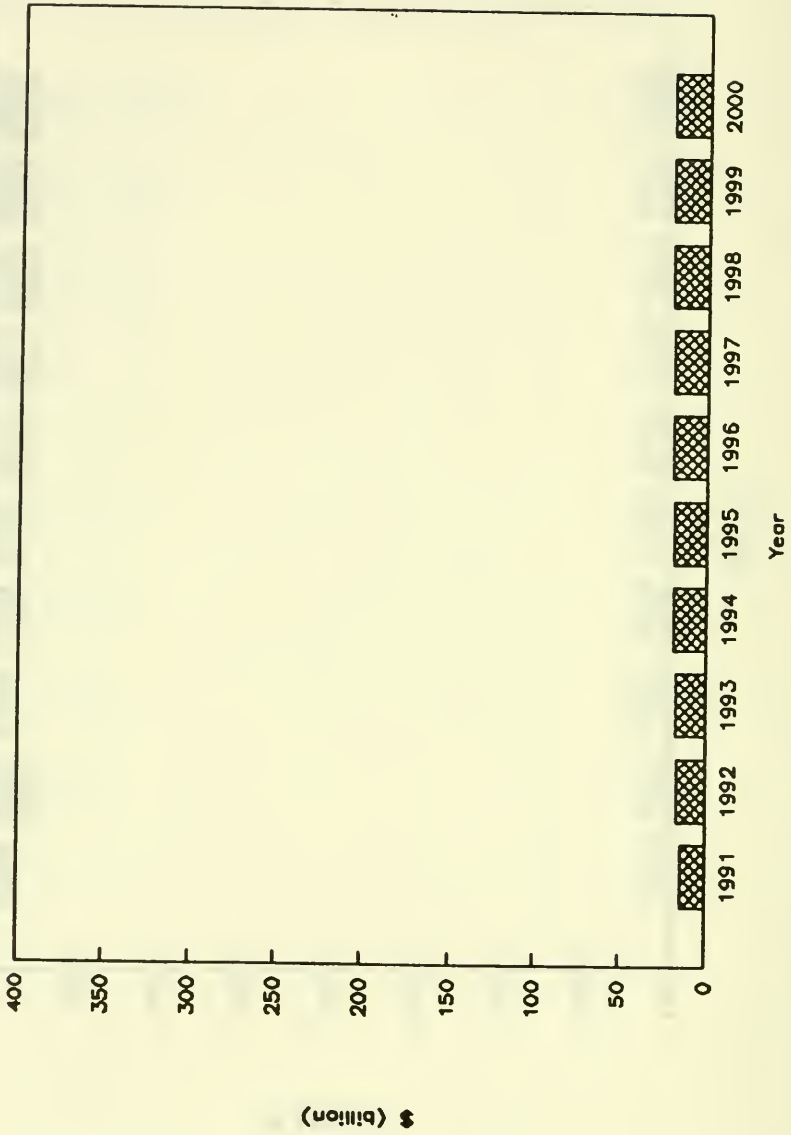
FOOD STAMPS



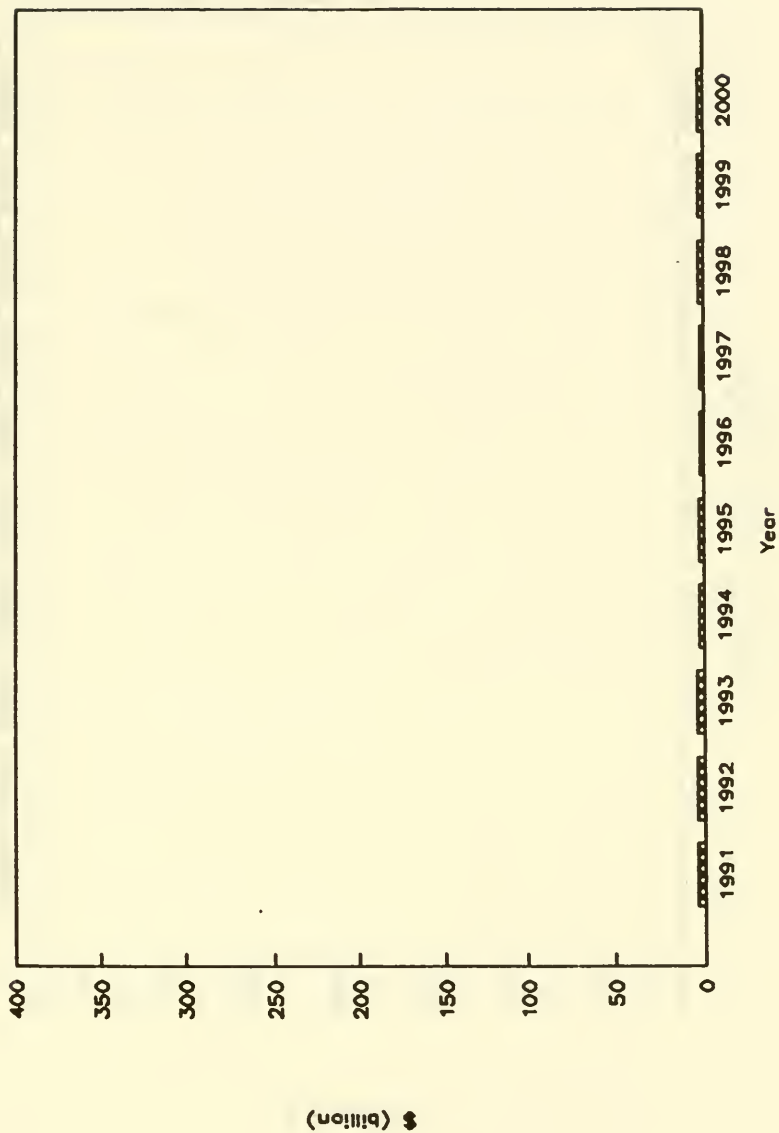
SSI



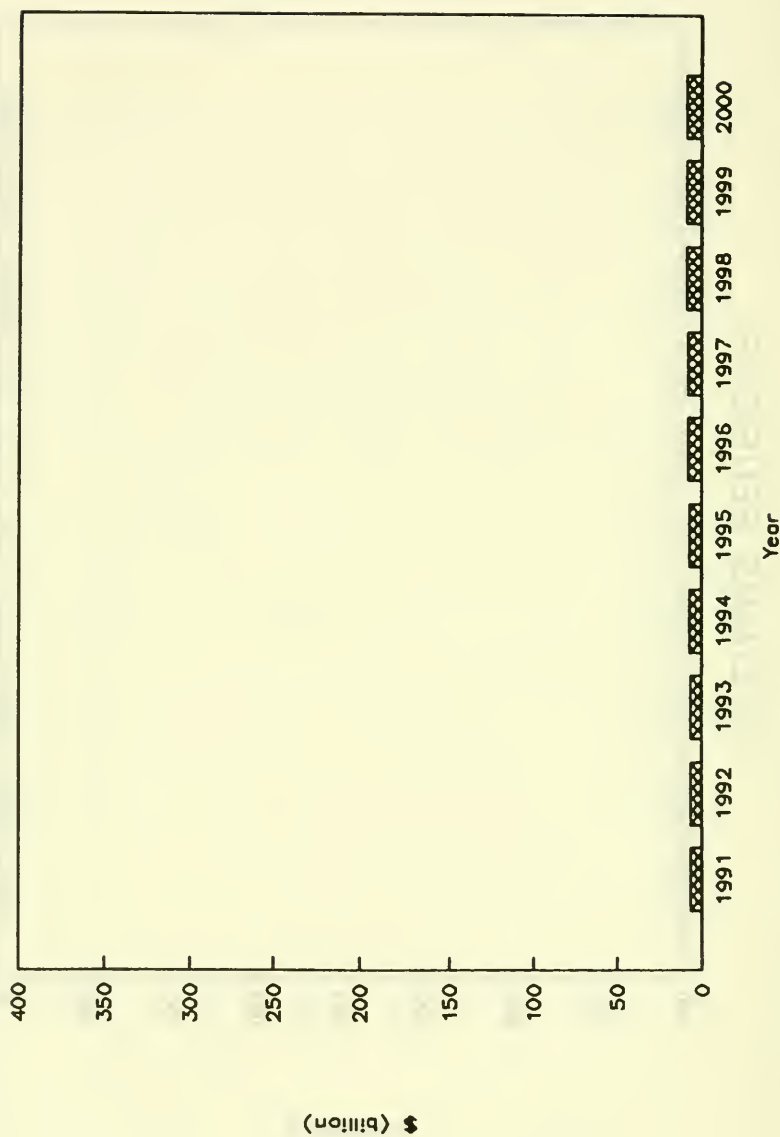
FAMILY SUPPORT



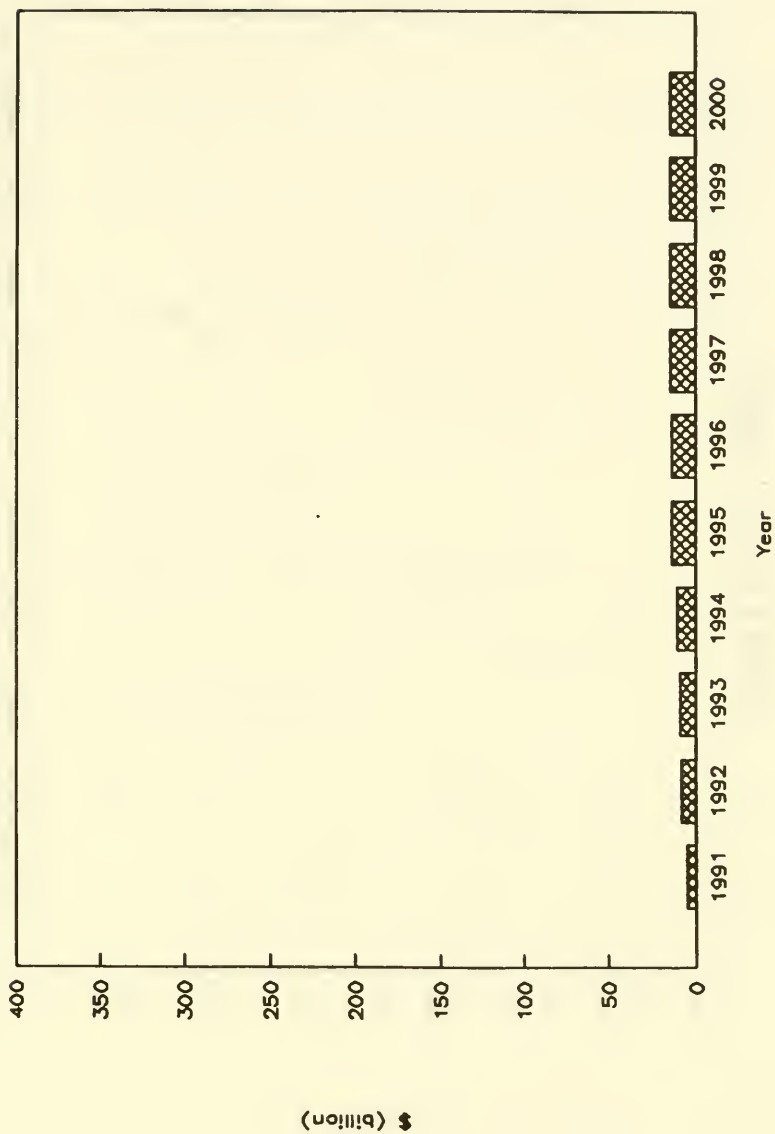
VETERANS PENSIONS



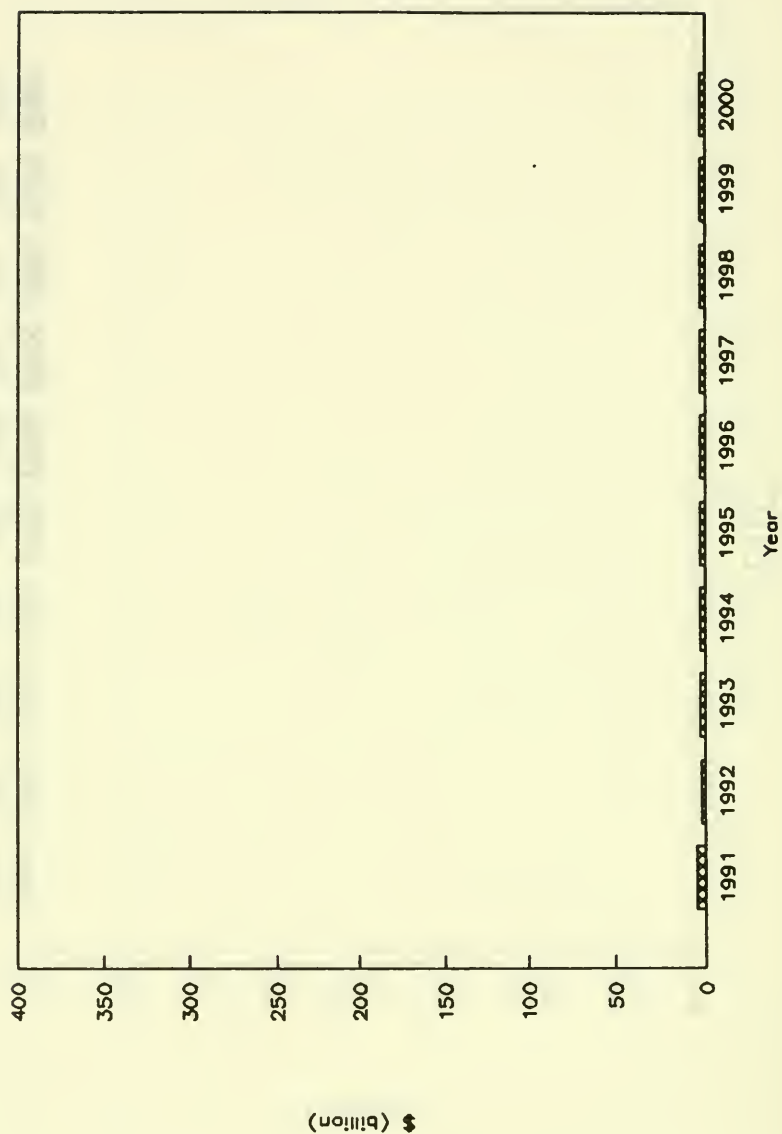
CHILD NUTRITION



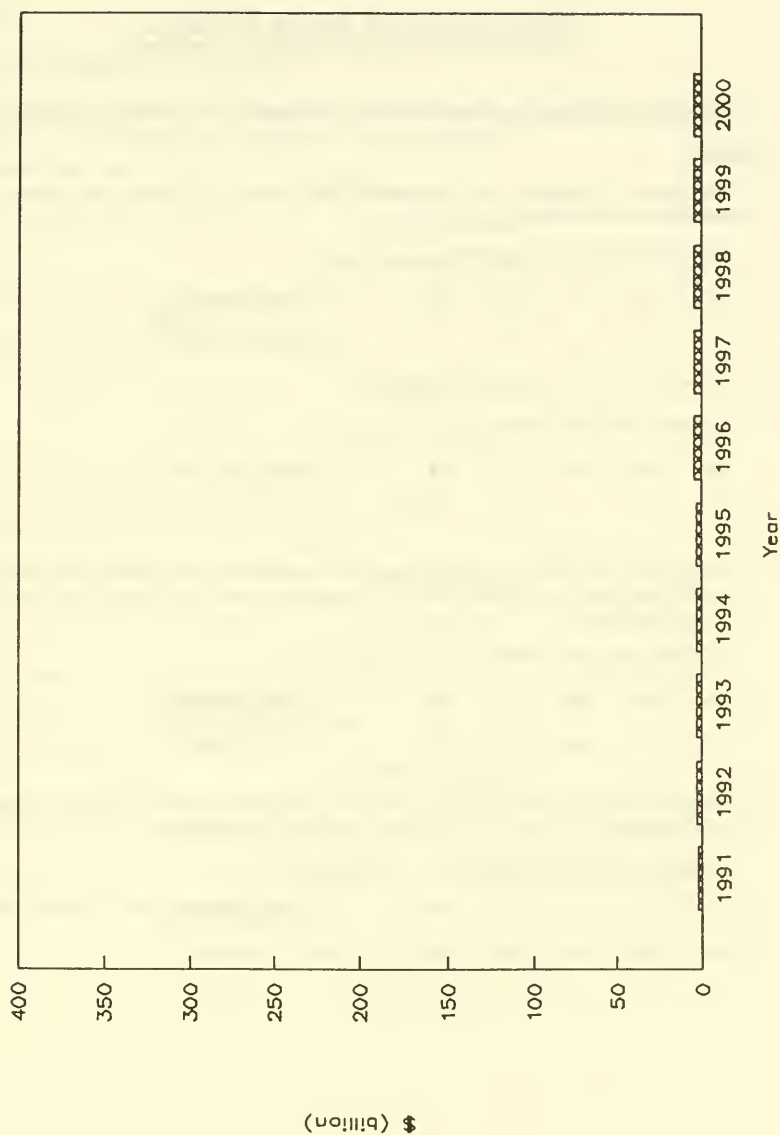
EITC



STAFFORD LOANS



OTHER MEANS-TESTED PROGRAMS



SPENDING OPTIONS FOR REDUCING THE DEFICIT
THROUGH MANDATORY FEDERAL MEDICAL PROGRAMS

I. Short-term options for consideration in the FY 1994 Budget Resolution

MEDICAID

1. Immediately eliminate the disproportionate share adjustment for most hospitals in Medicaid

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
11	12	14	15	17	\$68 billion

2. Enhance medical support for children

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.005	.01	.015	.020	.020	\$.070 billion

3. Establish a 5-year lookback feature to establish eligibility for long-term care under Medicaid; tighten estate-recovery processes and rules for long-term care

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.100	.200	.350	.500	.600	\$1.750 billion

4. Medicaid Nursing Home Reform- HR 5325 language from 1992 to give states more flexibility with nursing home quality regulations

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.175	.200	.250	.275	.300	\$1.200 billion

MEDICAREHOSPITAL INSURANCE (HI) (PART A)

1. Immediately eliminate the disproportionate share adjustment for most hospitals in Medicare's Prospective Payment System

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
2.35	2.90	3.15	3.35	3.60	\$15.35 billion

2. Gradually eliminate disproportionate share adjustment

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.47	1.10	1.80	2.60	3.50	\$9.47 billion

3. Place hospital update on a calendar year basis

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.68	.78	.78	.83	.86	\$3.93 billion

4. Reduce indirect teaching adjustment to 6%

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.58	.72	.78	.84	.97	\$3.84 billion

5. Reduce indirect teaching adjustment to 3%

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
1.65	2.0	2.2	2.35	2.75	\$10.95 billion

6. Reduce direct medical education payments

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.18	.19	.20	.20	.21	\$.98 billion

7. Eliminate additional payments to sole community hospitals and medicare dependent hospitals

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.15	.20	.21	.23	.26	\$1.05 billion

8. Eliminate return on equity for proprietary SNFs

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.095	.105	.115	.120	.130	\$.560 billion

9. Freeze PPS rates for one year

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
2.05	2.85	3.15	3.45	3.77	\$15.27 billion

10. Raise HI deductible to \$2000 for first day for high-income individuals with AGI over \$100,000; couples over \$125,000

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.100	.200	.200	.200	.300	\$1.000 billion

11. Raise HI deductible to \$2000 for first day for individuals with AGI over \$75,000; couples over \$100,000

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.050	.050	.050	.100	.100	\$.350 billion

SUPPLEMENTAL MEDICAL INSURANCE (SMI) (PART B)

1. Limit federal subsidy to 25% of SMI program costs for high-income persons (\$100K single/\$125K couple)

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.26	1.17	1.07	1.23	1.41	\$5.14 billion

2. Limit federal subsidy to 25% of SMI program costs for persons with incomes over \$75K single/\$100K couple

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.39	1.78	1.65	1.90	2.20	\$7.92 billion

3. Phase-out federal SMI subsidy for individuals over \$200,000 of income after it can be determined that they have used up the SMI premiums they have paid into the system over their career

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.17	.76	.69	.79	.90	\$3.31 billion

4. Increase SMI deductibles for physician services to \$150, up from \$100 and index to inflation

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.71	1.41	1.88	2.36	2.91	\$9.28 billion

5. Index SMI deductibles up from \$100

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.22	.56	.91	1.27	1.72	\$4.68 billion

6. Establish single fee for supervisory anesthesia services

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.10	.17	.19	.21	.24	\$ 0.91 billion

7. Authorize HHS Secretary to adjust DME reimbursements to reflect market factors

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.037	.062	.071	.081	.093	\$0.344 billion

8. Reform payment of laboratory services by lowering cap from 88¢ to 76¢ of the median and update as needed to reflect market factors

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.301	.543	.814	1.091	1.438	\$4.24 billion

9. Continue transition to prospective rates for outpatient departments

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.24	.79	1.09	1.28	1.49	\$4.88 billion

10. Charge fee for claims not billed electronically

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.15	.12	.09	.09	.10	\$.550 billion

11. Reduce payments for intraocular lenses to \$100

SAVINGS FROM CBO BASELINE (in billions)

24	25	26	27	28	5-YEAR SAVINGS
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.06	.09	.09	.10	.10	\$430 billion
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12. Freeze SMI reimbursement rates for one year

SAVINGS FROM CBO BASELINE (in billions)

24	25	26	27	28	5-YEAR SAVINGS
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1.27	2.82	3.57	3.99	4.43	\$16.08 billion
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13. Collect 20% coinsurance on home health

SAVINGS FROM CBO BASELINE (in billions)

24	25	26	27	28	5-YEAR SAVINGS
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2.40	4.01	4.70	5.22	5.70	\$22.03 billion
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14. Collect 20% coinsurance on SNFs (skilled nursing facilities)

SAVINGS FROM CBO BASELINE (in billions)

24	25	26	27	28	5-YEAR SAVINGS
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-.10	-.15	-.18	-.21	-.35	-\$89 billion
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15. Increase SMI premiums to 30% of program costs

SAVINGS FROM CBO BASELINE (in billions)

24	25	26	27	28	5-YEAR SAVINGS
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2.09	3.33	5.53	8.18	11.01	\$30.14 billion
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16. Increase SMI premiums to 35¢ of program costs

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
3.51	5.91	8.86	12.13	15.55	\$45.96 billion

17. Increase SMI premiums to 50¢ of program costs which was the original level set when the program was established

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
4.53	9.88	15.55	21.09	26.61	\$77.66 billion

18. Relate the SMI premium for physician's services under Medicare to enrollee's income; AGI individuals less than \$50,000 and couples less than \$65,000 stay at 25¢ of SMI cost per enrollee but premiums would rise progressively for higher-income enrollees and cover 50¢ of SMI costs for individuals with AGI over \$60,000 and couples over \$80,000

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.34	1.69	3.14	5.40	7.88	\$18.50 billion

19. Relate the SMI premium for physician's services under Medicare to enrollee's income; AGI individuals less than \$50,000 and couples less than \$65,000 stay at 25¢ of SMI cost per enrollee but premiums would rise progressively for higher-income enrollees and cover 100¢ of SMI costs for individuals with AGI over \$125,000 and couples over \$150,000

SAVINGS FROM CBO BASELINE (in billions)

<u>24</u>	<u>25</u>	<u>26</u>	<u>27</u>	<u>28</u>	<u>5-YEAR SAVINGS</u>
.34	1.51	2.94	5.16	7.59	\$17.54 billion

20. Collect 20% coinsurance on clinical lab services

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
.77	1.35	1.60	1.90	2.24	\$7.86 billion

21. Increase SMI coinsurance rate to 25%, up from 20%

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
1.51	3.43	4.46	5.17	5.93	\$20.50 billion

II. Options to consider as long-term structural solutions in a comprehensive health care reform package

1. Establish managed care for Medicaid programs in all states, similar to the Arizona Health Care Cost Containment System

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
0	2	2	3	3	\$10 Billion

2. Set a fixed per capita amount for federal share of Medicaid for FY 1994 and then index federal amount by the rate of inflation

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
0	10.5	19.2	28.9	38.5	\$97.1 billion

3. Set a fixed per capita amount for Medicare for FY 1994 and then index federal amount by the rate of inflation

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
0	8.4	22.5	37.6	54.0	\$122.5 billion

4. Raise eligibility age to receive Medicare benefits from age 65 to age 67 effective 1/1/94

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
8.4	14.5	16.3	18.2	20.3	\$77.7 billion

(NOTE: CBO has scored the interaction of the above proposal Part II, #4, and the raising of SMI premiums to 50% of program costs (Part I, #17) to be \$139 billion of savings over 5 years)

Gradual phase-in of eligibility age for Medicare benefits by 2 months per year beginning 1/1/94 until fully phased-in to age 67 by year 2006

SAVINGS FROM CBO BASELINE (in billions)

<u>94</u>	<u>95</u>	<u>96</u>	<u>97</u>	<u>98</u>	<u>5-YEAR SAVINGS</u>
1.0	2.5	4.0	6.0	8.5	\$22.0 billion

**TESTIMONY OF CONGRESSMAN DAN BURTON
BEFORE THE
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
JUNE 16, 1993**

HOUSE RULES:

The House leadership has become less democratic and more authoritarian since I was elected in 1982.

The Democrat leadership, through the Rules Committee, is stifling free and open debate on the House floor. Republican and Democrat members are being denied the right to offer amendments to major pieces of legislation -- not because of time constraints, but because Members of the majority do not want to vote on controversial issues.

Of 18 major bills brought to the House floor this year, 13 have been debated under very restrictive rules -- 72 percent.

By comparison, 10 years ago (1983-84), only 32 percent of the bills were debated under restrictive rules and 68 percent had open rules.

Examples:

H.R. 1430, to increase the public debt limit:

Cost: \$225 billion

Amendments allowed: none

H.R. 920, extending unemployment compensation benefits:

Cost: \$5.7 billion

Amendments allowed: none

H.Con.Res.64, The Fiscal Year 1994 Budget Resolution:

Cost: Over \$400 billion in new taxes and fees

Amendments allowed: two Republican & one Democrat

H.R. 2264, The Omnibus Budget Reconciliation Act:

Cost: Over \$400 billion in new taxes and fees

Amendments allowed: one

Of 270 amendments submitted to the Rules Committee this year, only 52 have been approved for floor action. Among those amendments denied a vote:

- * A Constitutional amendment requiring a balanced budget
- * An amendment retaining the ban on HIV-positive immigrants from permanent admission to the U.S.
- * An amendment retaining the ban on homosexuals in the military
- * An amendment rescinding \$1.96 billion in pork-barrel projects
- * Separate amendments to the reconciliation bill deleting the energy tax and the Social Security tax.

These are the big issues. The American people expect us to debate them and vote on them -- not avoid them.

The Three-Day Layover Requirement:

House rules require that all Members be given three days to study a bill and prepare amendments before the bill is brought to the floor. Waiving of the 'three-day' rule has become routine.

The Budget Reconciliation Act -- which raised taxes by \$350 billion -- was brought to the floor on Thursday, May 27, even though the final details had only been written the night before.

This bill was 1,500 pages.

The Rule, complete with self-executing amendments, was 900 pages.

That's 2,400 pages of legislation Members had to vote on without a chance to read it.

OPEN VS. RESTRICTIVE RULES

95TH - 103RD CONGRESSES

Congress (Years)	Total Rules Granted ^a	Open Rules # (%) ^b	Restrictive Rules # (%) ^c
95th (1977-78)	211	179 (85%)	32 (15%)
96th (1979-80)	214	161 (75%)	53 (25%)
97th (1981-82)	120	90 (75%)	30 (25%)
98th (1983-84)	155	105 (68%)	50 (32%)
99th (1985-86)	115	65 (57%)	50 (43%)
100th (1987-88)	123	66 (54%)	57 (46%)
101st (1989-90)	104	47 (45%)	57 (55%)
102nd (1991-92)	109	37 (34%)	72 (66%)
103rd (1993-94)	18	5 (28%)	13 (72%)

Sources: Rules Committee Calendars & Surveys of Activities, 95th-102nd Congresses;
 "Notices of Action Taken," Committee on Rules, 103rd Congress, through June 11, 1993.

FOOTNOTES

- A. Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.
- B. Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.
- C. Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

OPEN V. RESTRICTIVE RULES 103RD CONGRESS

RULE NUMBER DATE REPORTED	RULE TYPE	BILL NUMBER & SUBJECT	AMENDMENTS SUBMITTED	AMENDMENTS ALLOWED	DISPOSITION OF RULE & DATE
H.RES. 58 2/2/93	MC	H.R. 1: FAMILY & MEDICAL LEAVE	30 (D-3R-25)	3 (D-QR-3)	PQ: 246-176 A: 259-164 (2/2/93)
H.RES. 59 2/2/93	MC	H.R. 2: NATIONAL VOTER REGISTRATION ACT	19 (D-1R-18)	1 (D-QR-1)	PQ: 248-171 A: 249-170 (2/4/93)
H.RES. 103 2/23/93	C	H.R. 920: UNEMPLOYMENT COMPENSATION	7 (D-2R-5)	0 (D-QR-0)	PQ: 243-172 A: 237-178 (2/24/93)
H.RES. 106 3/2/93	MC	H.R. 20: HATCH ACT AMENDMENTS	9 (D-1R-4)	3 (D-QR-3)	PQ: 248-166 A: 249-163 (3/3/93)
H.RES. 119 3/9/93	MC	H.R. 4: NIH REVITALI- ZATION ACT OF 1993	13 (D-4R-9)	8 (D-3R-5)	PQ: 247-170 A: 248-170 (3/10/93)
H.RES. 132 3/17/93	MC	H.R. 1335: EMERGENCY SUPPLEMENTAL APPROPs	37 (D-8R-29)	1 (not submitted) (D-1R-0)	A: 240-185 (3/18/93)
H.RES. 133 3/17/93	MC	H.CON.RES. 64: BUDGET RESOLUTION	14 (D-2R-12)	4 (1-D not submitted) (D-2R-2)	PQ: 250-172 A: 251-172 (3/18/93)
H.RES. 138 3/23/93	MC	H.R. 670: FAMILY PLANNING AMENDMENTS	20 (D-8R-12)	9 (D-4R-5)	PQ: 252-164 A: 247-169 (3/24/93)
H.RES. 147 3/31/93	C	H.R. 1430: INCREASE PUBLIC DEBT LIMIT	6 (D-1R-5)	0 (D-QR-0)	PQ: 244-168 A: 242-170 (4/1/93)

RULE NUMBER DATE REPORTED	RULE TYPE	BILL NUMBER & SUBJECT	AMENDMENTS SUBMITTED	AMENDMENTS ALLOWED	DISPOSITION OF RULE & DATE
H.RES. 149 4/1/93	MC	H.R. 1578: EXPEDITED RESCISION ACT OF 1993	8 (D-1; R-7)	3 (D-1; R-2)	A: 212-208 (4/28/93)
H.RES. 164 5/4/93	O	H.R. 820: NATL. COMPETITIVENESS ACT	N/A	N/A	A: Voice Vote (5/5/93)
H.RES. 171 5/18/93	O	H.R. 873: GALLATIN RANGE ACT OF 1993	N/A	N/A	A: Voice Vote (5/20/93)
H.RES. 172 5/18/93	O	H.R. 1159: PASSENGER VESSEL SAFETY ACT	N/A	N/A	A: 308-0 (5/24/93)
H.RES. 173 5/18/93	MC	S.J. RES. 45: US FORCES IN SOMALIA	6 (D-1; R-3)	6 (D-1; R-3)	A: Voice Vote (5/20/93)
H.RES. 183 5/25/93	O	H.R. 2244: 2ND SUPPLEMENTAL APPROP.	N/A	N/A	A: 251-174 (5/26/93)
H.RES. 186 5/27/93	MC	H.R. 2264: OMNIBUS BUDGET RECONCILIATION	51 (D-19; R-32)	8 (D-7; R-1)	PQ: 252-178 A: 236-194 (5/27/93)
H.RES. 192 6/9/93	MC	H.R. 2348: LEG. BRANCH APPROPRIATIONS	50 (D-6; R-44)	6 (D-3; R-3)	PQ: 240-177 A: 226-185 (6/10/93)
H.RES. 193 6/10/93	O	H.R. 2200: NASA AUTHORIZATION	N/A	N/A	

CODE: C-CLOSED; MC-MODIFIED CLOSED; MO-MODIFIED OPEN; O-OPEN; D-DEMOCRAT; R-REPUBLICAN; PQ: PREVIOUS QUESTION; A-ADOPTED; P-FAILED

A STATEMENT BY CONGRESSMAN WAYNE T. GILCHREST
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
JUNE 16, 1993

BEFORE I BEGIN MY STATEMENT, I WOULD LIKE TO SHARE WITH YOU A QUOTE FROM JOHN STUART MILL'S ON LIBERTY: "IF ALL MANKIND MINUS ONE, WERE OF ONE OPINION, AND ONLY ONE PERSON WERE OF THE CONTRARY OPINION, MANKIND WOULD BE NO MORE JUSTIFIED IN SILENCING THAT ONE PERSON, THAN HE, IF HE HAD THE POWER, WOULD BE JUSTIFIED IN SILENCING MANKIND."

MEMBERS OF THE COMMITTEE, I AM AFRAID MR. MILL WOULD BE VERY UNHAPPY WITH THE NUMBER OF CLOSED RULES THE HOUSE HAS BEEN FACED WITH IN RECENT YEARS.

I AM HERE TODAY TO TESTIFY ABOUT A BILL THAT I HAVE INTRODUCED THAT WILL BRING FREE AND OPEN DEBATE TO THE FLOOR OF THE HOUSE OF REPRESENTATIVES. I HOPE THE JOINT COMMITTEE WILL TAKE A VERY CLOSE LOOK AT THIS IDEA AND CONSIDER IT AS PART OF A COMPREHENSIVE REFORM OF FLOOR PROCEDURE AND OPENING UP DEBATE ON THE FLOOR OF THE HOUSE.

THE BILL I INTRODUCED WOULD REQUIRE A 60% MAJORITY VOTE TO ADOPT A RULE WHICH PROHIBITS CONSIDERATION OF ANY GERMANE AMENDMENT FILED WITH THE RULES COMMITTEE AT LEAST THREE DAYS BEFORE CONSIDERATION OF A BILL.

SUCH A CHANGE WOULD NOT 'TURN US INTO THE SENATE' SO THAT

MEMBERS COULD STALL CONSIDERATION. IT WOULD SIMPLY REQUIRE THE MAJORITY TO CONSULT WITH THE MINORITY TO BRING A RULE TO THE FLOOR. RULES COULD EASILY RESTRICT AMENDMENTS IF THE LEADERSHIP OF BOTH PARTIES WERE CONSULTED, AND THERE IS NO GUARANTEE OF DEBATE TIME FOR ANY GIVEN AMENDMENT.

AT THE RISK OF STATING THE OBVIOUS, THIS HOUSE IS A DEMOCRATIC INSTITUTION ONLY BECAUSE THE PEOPLE HAVE THE OPPORTUNITY TO IMPACT LEGISLATION THROUGH THEIR REPRESENTATIVE. BUT FAR TOO OFTEN LATELY, THE ADOPTION OF RULES FOR CONSIDERATION OF LEGISLATION PRECLUDES THIS, AS MEMBERS ARE PROHIBITED FROM OFFERING GERMANE AMENDMENTS WHICH ARE WORTHY OF DISCUSSION.

ALTHOUGH AT FIRST GLANCE IT WOULD APPEAR THAT CLOSED RULES PRIMARILY IMPACT REPUBLICAN MEMBERS, MANY DEMOCRATS ARE ALSO BEING 'GAGGED.' THE INCREASING FREQUENCY OF CLOSED RULES IS RAPIDLY ERODING THE ABILITY OF MEMBERS TO MODIFY LEGISLATION AND THE RIGHT OF THE HOUSE TO CONSIDER PROPOSED MODIFICATIONS. FURTHERMORE, SUCH RULES DETRACT FROM CONGRESSIONAL ACCOUNTABILITY, AS MEMBERS ARE NO LONGER REQUIRED TO VOTE ON SPECIFIC PROVISIONS OF LEGISLATION.

BY ALLOWING MORE AMENDMENTS TO COME TO THE FLOOR FOR A VOTE, MEMBERS WOULD BE FAR MORE ACCOUNTABLE TO THEIR CONSTITUENTS BACK HOME. MEMBERS WOULD HAVE TO TAKE A POSITION ON SPECIFIC PROVISIONS OF LEGISLATION THAT IS OFTEN CONTROVERSIAL. THE OPENING UP OF DEBATE WOULD ACTUALLY GIVE MEMBERS THE OPPORTUNITY

TO EXPLAIN THE REASONING BEHIND THEIR VOTES RATHER THAN SIMPLY SUPPLYING AN EXPLANATION FOR AN UP OR DOWN VOTE ON PASSAGE OF LEGISLATION.

SOME MAY ARGUE THAT OUR CURRENT SYSTEM WAS SET UP TO ENSURE THAT THE MAJORITY REMAINS IN CONTROL AND I AGREE THAT IT IS THE RIGHT OF THE MAJORITY TO HAVE THE VOTES TO EITHER PASS OR DEFEAT AMENDMENTS. MY INTENTION, HOWEVER, IS TO SIMPLY BRING SPECIFIC PROVISIONS OF CONTROVERSIAL MEASURES TO THE FLOOR FOR CONSIDERATION BY ALLOWING GERMANE AMENDMENTS TO BE OFFERED AND DISCUSSED.

ANOTHER ARGUMENT MAY BE THAT THE SOME MEMBERS COULD PRE-FILE DOZENS OF GERMANE AMENDMENTS AND EFFECTIVELY BLOCK CONSIDERATION OF A BILL.

ONE POSSIBLE MEANS TO ADDRESS THIS WOULD BE AN ALTERNATIVE MECHANISM WHEREBY THE HOUSE COULD, BY SIMPLE MAJORITY, ADOPT A RULE PERMITTING A CERTAIN NUMBER OF AMENDMENTS (THREE OR FOUR) FROM EACH SIDE OF THE AISLE, TAKEN FROM MEMBERS IN ORDER OF PARTY SENIORITY, WITH SUBSTITUTES AND EN BLOC AMENDMENTS ALLOWED. THE JOINT COMMITTEE MAY ALSO WANT TO EXEMPT FROM THIS REQUIREMENT RECONCILIATION LEGISLATION, THE ANNUAL BUDGET RESOLUTION, OR LEGISLATION (SUCH AS ACTIONS UNDER THE WAR POWERS ACT) WITH SIGNIFICANT IMPACT ON NATIONAL SECURITY.

I SHOULD EMPHASIZE, HOWEVER, THAT THE PROPOSAL DISCUSSED

ABOVE IS NOT PART OF THE BILL, IT IS SIMPLY ONE POSSIBLE MODIFICATION THAT THE JOINT COMMITTEE MAY WISH TO CONSIDER.

BEFORE THIS SESSION OF CONGRESS, THE PROBLEM OF CLOSED AND RESTRICTIVE RULES WAS SOMETHING THAT ONLY MEMBERS OF CONGRESS OR THOSE VERY CLOSELY ASSOCIATED WITH IT WOULD UNDERSTAND. NOW, MANY AMERICAN VOTERS ARE BECOMING KEENLY AWARE OF THIS THROUGH C-SPAN AND ARE GREATLY OFFENDED BY IT.

THE PUBLIC WANTS TO KNOW WHY RELEVANT AMENDMENTS ARE NOT EVEN ALLOWED TO BE DEBATED ON THE FLOOR. THEY ARE CONCERNED THAT THEY ARE NOT MADE AWARE OF HOW THEIR REPRESENTATIVE FEELS ON SPECIFIC PROVISIONS OF CONTROVERSIAL LEGISLATION.

MEMBERS OF THE JOINT COMMITTEE, IN CONCLUSION I WOULD LIKE TO SAY THAT I DO NOT PRETEND TO BE AN EXPERT ON THE RULES COMMITTEE OR THE WORK THE COMMITTEE DOES IN COMING UP WITH A RULE FOR EACH PIECE OF LEGISLATION. THE MAJORITY HAS AND DESERVES THE RIGHT TO DETERMINE, BY SIMPLE MAJORITY, THE OUTCOME OF A BILL - WHETHER OR NOT IT PASSES AND WHAT PROVISIONS IT CONTAINS. I DO BELIEVE, HOWEVER, THAT THE DECISION WHETHER OR NOT AN AMENDMENT SHOULD EVEN BE CONSIDERED IS SIGNIFICANTLY DIFFERENT, AND SHOULD REQUIRE A STRONGER MANDATE.

I THANK YOU FOR YOUR ATTENTION TO THIS PROPOSAL AND I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.

TESTIMONY OF CONGRESSMAN STEVE BUYER
BEFORE THE JOINT COMMITTEE ON THE
ORGANIZATION OF CONGRESS
JUNE 16, 1993

Co-Chairmen, Vice Chairmen, and Members of the Committee, I welcome and appreciate the opportunity to testify before you today. I am grateful for your willingness to hold a day of hearings where House members can come and give our views as to what constitutes Congressional reform.

As a freshman member, I am humbled when I think of the task that you have undertaken. While I am only beginning to grasp the complexity of Congress as an institution, I do know that it has lost face with the public.

Over the last few weeks, I have held over a dozen town meetings in my rural Indiana District. The turnout at these meetings was excellent. The people are concerned with the issues facing this country.

A constant theme at all of these town meetings was one of a "trust deficit" between the government and its people. While the ire was not just limited to Congress, the executive took its share, Congress took a considerable beating. The people are disillusioned and angry--very angry. They don't know who they

can trust with their tax dollars.

They perceive a Congress that is too quick to spend money. A Congress too willing to spend their money on new programs. A Congress that is unwilling or unable to cut spending. A Congress that is unwilling or unable to terminate programs. They perceive a government and a Congress that has an insatiable appetite for tax dollars and they are working harder and harder but getting farther and farther behind.

Whether these perceptions are totally right or totally wrong is basically irrelevant. Perception can be reality. We, as Members of Congress, must deal with this reality.

As with many members of my class, Democrat and Republican alike, I campaigned on Congressional reform. I realize that this is a term that can mean different things to different people. Let me highlight those issues I campaigned on, issues that I think are important to any reform effort. I will also touch on several other areas for reform that I have encountered since my swearing in.

Congress must live by the laws it passes for the rest of the Nation. While I recognize that enforcement difficulties must be overcome, Congress must end the practice of exempting itself from the laws that apply to everybody else. I further recognize that

Congress discriminates in its hiring--I like to hire staff that have some connection to my District or that have a philosophical thinking that is consistent with mine. I think this is necessary discrimination to carrying out our roles as representatives of the people. But barring those types of considerations, I think Congress should also be looked upon as a large employer and be subject to the same constrictions that we place on large employers from the Fair Labor Standards Act of 1938 to the Americans with Disabilities Act of 1990.

We must put limits on the franking privilege. Although one of the most important functions of a Member of Congress is to communicate with constituents, indeed I would argue that difficulties in communication are a part of our current lack of prestige, unsolicited postal patron newsletters must be curtailed. I have voluntarily pledged to do only one District-wide postal patron per term. I see no reason why other members could not operate effectively under the same constraint. I would even go so far as to limit House postal patrons to town meeting notices, such as has been done in the Senate.

Furthermore, I suggested that Members be given a postage allowance and use postage and other bulk mailing permits that are available to businesses. The use of mail budgets and disclosure and accountability of these accounts is important and needs to be maintained. I heartily endorse a ban on any unsolicited mail 90

days prior to a primary or a general election, as the Freshmen Republicans proposed last week.

I also support term limits. I recognize that a Constitutional amendment is necessary to enforce this recommendation. I am a cosponsor of two proposals to limit terms for Members of Congress. I do not think that the Founding Fathers intended public service in the Congress to be a career. I think they envisioned a citizen legislature, where Members would come from all walks of life. If the Committee were to include this as a part of its recommendations, it would give a tremendous boost toward the realization of this goal.

I am pleased that the Republican Conference in the House has included in its rules rotation of committee chairs and ranking members. This "term limit" for committee chairs, limiting to six years the time a member can serve as chairman or ranking member, will bring new enthusiasm and fresh thinking to the operation of committees.

Now let me turn to some realizations I have come to as a freshman member since my swearing in. After my election, I gave consideration to what to expect as a national legislator. I envisioned being able to hear, and perhaps participate in, debates on national issues--debates where there would be great give and take, debates that would bring out the broad and fine

points of an issue. And from these informed debates, I expected to be able to weigh the facts and come to decisions that best represented the views of my constituents.

To my good friends in the Senate, I say that this may be the way it works in the Senate. This is not the way it works in the House of Representatives. There is very little give and take on the House floor. The parameters of an issue are decided long before a measure reaches the House floor. In the House, bills go to the Rules Committee, which issues a rule governing the terms of debate on the floor. In the 95th Congress (1977-1978), 85% of the rules were open rules, which meant that bills were open to amendments pursuant to the general rules of the House. In the 102nd Congress, 34% of the rules were open. Thus far in the 103rd Congress, 24% of the rules have been open.

There is no give and take of debate. There is not even the opportunity to offer a germane amendment. Rules also waive points of order, even those that are in the Rules to enforce the Budget Act. I fear there is more free speech in the Russian Parliament than there is in this House. This is arrogance on the part of the majority. I ask, what is the majority afraid of--that the minority might win one once and awhile. Let me give you an example.

I went before Rules Committee to support a request for an

amendment to the President's economic stimulus package. While I was waiting my turn, Congressman Stenholm made a reasonable request to offer an amendment to reduce the spending, delay some spending and stretch out spending. After 36 requests for amendments, not one amendment was allowed on the House floor. To do this to an appropriation bill is an outrage. I hesitate to suggest that if Mr. Stenholm had been permitted to offer his amendment and had he prevailed, a distinct possibility, President Clinton's package may not have met such a fate in the Senate-- death by filibuster. If open debate and amendment had been permitted, the process would have produced a better product.

I serve on the Armed Services Committee and the Veterans Affairs Committee. The jurisdiction of these two committees is fairly straight forward. Nonetheless, the jurisdiction for other issues is not so clear cut. The House does have a problem with overlapping committee and subcommittee jurisdiction. Several dozen Congressional committees and subcommittees claim jurisdiction over energy legislation. The jurisdiction of environmental and health issues is also broadly disbursed. I use these issues only as examples, I am sure there are others.

While I am on the subject of committees and subcommittees, I urge this Committee to look at the need for better parity between the majority and minority on House committee staffs. I am amazed at the capability of minority staff, who are able to accomplish

much with few resources. The minority would be in a better position to represent our constituents if given a more reasonable share of committee resources.

Finally, I will freely admit that I am not an expert on the Budget Act. However, I was troubled by events during House consideration of the budget reconciliation bill. Amendments could not be offered to the bill to reduce or delete taxes unless offset by other taxes or spending cuts within the jurisdiction of Ways and Means. I have no problem with the offsetting provision. However, I think that it should be broader to include other spending and not just that within the Ways and Means Committee jurisdiction. I think these constrictions are biased in favor of taxes and I would prefer that if there is a bias, it be toward cutting spending.

I am hopeful that this Committee will be a constructive force on the way we conduct the people's business. While many may conclude that this is an Inside-the-Beltway exercise, I do not think so. I think the people are watching to see if Congress can reform itself and regain the public's trust. I wish you well as you proceed with your deliberations.

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Congress of the United States
House of Representatives

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
MERCHANT MARINE
AND FISHERIES

COMMITTEE ON
SMALL BUSINESS

MAJORITY WHIP AT LARGE

Statement of Representative Thomas H. Andrews
Before the
Joint Committee on the Organization of Congress
June 16, 1993

MR. CHAIRMAN AND MEMBERS OF THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS, FIRST I WOULD LIKE TO EXTEND TO YOU MY APPRECIATION FOR YOUR WILLINGNESS TO SERVE ON THIS COMMITTEE AND TO GO ABOUT THE DIFFICULT TASK OF REVIEWING AND RECOMMENDING REFORMS THAT WOULD REORGANIZE THE CONGRESS OF THE UNITED STATES.

IT IS ONE THING TO COMPLAIN ABOUT CONGRESS. IT IS QUITE ANOTHER TO DO THE HARD WORK OF IDENTIFYING AND MAKING THE POSITIVE CHANGES NECESSARY TO MAKE THIS INSTITUTION WORK BETTER. I COMMEND YOU FOR HAVING THE WILLINGNESS TO DO THE LATER.

MY CHIEF CONCERN WITH THE OPERATION OF CONGRESS CONCERNS MONEY - HOW WE BUDGET IT AND HOW WE ALLOCATE IT. I CAN THINK OF NO MORE IMPORTANT AREA OF REFORM THAT WE CAN MAKE THAT WOULD INCREASE THE CREDIBILITY OF THIS INSTITUTION WITH THE AMERICAN PEOPLE. AFTER ALL, IT IS THEIR MONEY.

OF THE FRUSTRATIONS THAT PEOPLE FEEL ABOUT CONGRESS, I CAN THINK OF NO GREATER SOURCE THAN PORK BARREL SPENDING. THAT IS, SPENDING THAT IS BASED NOT ON WHAT IS IN THE NATIONAL INTEREST, BUT IS BASED ON THE POWER OF INDIVIDUAL MEMBERS OF CONGRESS. THE PUBLIC BECOMES AWARE OF THIS PRACTICE THROUGH THE PERIODIC PUBLICATION OF EXAMPLES OF THIS TYPE OF SPENDING. AS A RESULT, ALL OTHER SPENDING, AND INDEED THE INSTITUTION OF CONGRESS AS A WHOLE, BECOMES, AT BEST SUSPECT.

PORK BARREL SPENDING TAKES MANY FORMS, BUT THE DYNAMIC IS WELL ESTABLISHED. SOME MEMBERS MEASURE THEIR SUCCESS ON THE BASIS OF THE FEDERAL MONEY THAT THEY CAN BRING HOME TO THEIR DISTRICT. SO DO MANY OF THEIR CONSTITUENTS, LEADING OF COURSE, TO A POPULAR DEFINITION OF PORK BARREL AS ANY UNECESSARY SPENDING THAT OCCURS IN SOMEONE ELSE'S DISTRICT.

MONEY IS EARMARKED FOR THE MEMBERS DISTRICT AND INSERTED INTO AN APPROPRIATIONS BILL. OTHER MEMBERS ARE THEN EXPECTED TO GO ALONG. THE MESSAGE TO GO ALONG COMES IN FORMAL AND LESS FORMAL WAYS. FROM A MEMO OR CALL THAT INFORMS A MEMBER OF WHAT IS IN THE BILL THAT WILL GO TO THEIR DISTRICT OR THE LESS FORMAL MESSAGE DELIVERED PARTICULARLY TO NEW MEMBERS THAT THEIR SUPPORT IS EXPECTED AND THAT CERTAIN POWERFUL MEMBERS HAVE VERY LONG MEMORIES. IN OTHER WORDS, IT IS IN THE INTEREST OF A MEMBER OF CONGRESS TO SUPPORT A PORK BARREL LADEN BILL IF THERE IS SOMETHING IN IT FOR THEM, OR, IF THEY EVER WANT TO HAVE SOMETHING IN IT FOR THEM IN THE FUTURE.

IN SHORT, GO ALONG IF YOU WANT TO GET ALONG.

INEVITABLY, SOME OF THE MOST EGREGIOUS EXAMPLES OF WASTEFUL PORK BARREL SPENDING IS IDENTIFIED TO THE PUBLIC IN A NEWS STORY AND TALK SHOW HOSTS AROUND THE COUNTRY TEE OFF ON CONGRESS.

CONSIDERATION OF HOW WE CAN REFORM CONGRESS WILL NOT BE COMPLETE UNTIL THIS ISSUE IS TAKEN ON AND SYSTEMATIC WAYS OF IDENTIFYING AND ELIMINATING THE CYCLE OF WASTEFUL PORK BARREL SPENDING ARE IDENTIFIED.

I AM PRESENTING FOR YOUR CONSIDERATION A PROPOSAL THAT SEEKS TO DO JUST THAT.

IT IS BASED ON A REFORM MEASURE THAT WAS CREATED TO TAKE ON THE WASTEFUL CYCLE OF FEDERAL SPENDING ON UNNECESSARY MILITARY BASES AROUND THE COUNTRY. AS YOU KNOW, CLOSING A MILITARY BASE, REGARDLESS OF HOW UNNECESSARY IT MAY BE, IS NOT AN EASY TASK. THE REASON IS WHAT IT MEANS TO CONGRESSIONAL DISTRICTS THAT ARE AFFECTED. AS A RESULT, ACTUALLY CLOSING A MILITARY BASE WAS, FOR YEARS, AN IMPOSSIBILITY.

THE BASE CLOSURE AND REALIGNMENT COMMISSION WAS CREATED TO BREAK THIS POLITICAL CYCLE AND CLOSE UNNECESSARY MILITARY BASES. WHILE THE PROCESS HAS BEEN DIFFICULT AND NOT WITHOUT CONTROVERSY, I BELIEVE THAT IT HAS WORKED. MILITARY BASES HAVE IN FACT CLOSED AND MONEY HAS BEEN SAVED NOTWITHSTANDING THE OBJECTIONS OF THOSE WHOSE DISTRICTS ARE DIRECTLY AFFECTED.

I THEREFORE BELIEVE THAT IT IS TIME TO CONSIDER UTILIZING THIS MODEL IN THE APPROPRIATIONS PROCESS.

I WOULD LIKE TO SUBMIT TO YOU AND FOR THE RECORD, AN OUTLINE OF HOW SUCH A PROCESS COULD WORK, ALONG WITH ANSWERS TO SOME OF THE QUESTIONS THAT WERE CONSIDERED IN PUTTING THIS PROPOSAL TOGETHER.

IN SHORT, I AM PROPOSING THAT AN INDEPENDENT, BI-PARTISAN COMMISSION BE CREATED, USING THE BASE CLOSURE AND

REALIGNMENT COMMISSION AS A MODEL, TO IDENTIFY WASTEFUL, PORK BARREL SPENDING IN CONGRESSIONAL APPROPRIATIONS BILLS, HOLD THIS SPENDING OUT FOR REVIEW, AND REQUIRE A SEPERATE, UP OR DOWN VOTE, BY THE CONGRESS BEFORE THAT SPENDING CAN BE FINALLY APPROVED.

THE COMMISSION WOULD BE APPOINTED BY THE PRESIDENT, IN CONSULTATION WITH THE MAJORITY AND MINORITY LEADERSHIP OF BOTH HOUSES OF CONGRESS. CRITERIA WOULD THEN BE ESTABLISHED THAT DEFINES PORK BARREL SPENDING.

THIS CRITERIA CAN INCLUDE APPROPRIATIONS WHICH:

- *LACK A ESPECIFIC AUTHORIZATION;
- *WAS ADDED BY A CONFERENCE COMMITTEE AND WAS NOT APPROVED BY EITHER THE HOUSE OR SENATE;
- *HAS NO MEANINGFUL RELATIONSHIP TO THE ACT UNDER WHICH IT WAS FUNDED OR TO THE AGENCY OR PROGRAM UNDER WHICH IT IS TO BE ADMINISTERED;
- *IS PROVIDED FOR A PROJECT WHICH WAS NOT REQUESTED BY THE ADMINISTRATION AND IS TO BE AWARDED NON-COMPETITIVELY; OR
- *PROJECTS OF PURELY LOCAL INTEREST, WITHOUT NATIONAL OR REGIONAL IMPORTANCE.

THE COMMISSION WOULD THEN APPLY THIS CRITERIA TO APPROPRIATIONS BILLS AND SINGLE OUT THOSE ITEMS THAT MEET THE DEFINITION. A PUBLIC HEARING WOULD THEN BE HELD TO HEAR THE VIEWS OF THOSE WHO SUPPORT THE SPENDING ITEMS AND BELIEVE THAT THEY DO NOT, IN FACT, MEET THE DEFINITION OF PORK BARREL SPENDING. A FINAL LIST WOULD THEN BE APPROVED BY THE COMMISSION AND SUBMITTED TO THE PRESIDENT AND CONGRESS FOR AN UP OR DOWN VOTE ON THE ENTIRE PACKAGE.

WHILE I DO NOT INTEND FOR THIS TO BE A PERMANENT FEATURE OF THE PROCESS OF ALLOCATING RESOURCES, I BELIEVE THAT IT COULD BE INSTRUMENTAL IN BREAKING THE CYCLE OF PORK BARREL SPENDING, SAVING TAX DOLLARS AND RENEWING PUBLIC CONFIDENCE IN THE UNITED STATES CONGRESS.

WE HAVE ESTABLISHED A MECHANISM THAT WORKS IN CONTROLLING UNNECESSARY CONGRESSIONAL SPENDING IN THE BASE CLOSURE AND REALIGNMENT PROCESS. WHY NOT PUT IT TO USE TO SAVE ADDITIONAL DOLLARS?

FINALLY, I WOULD LIKE TO RECOMMEND THAT WE REFORM THE CONGRESSIONAL BUDGET PROCESS IN A WAY THAT REFLECTS HOW ALL SOLVENT BUSINESSES AND MOST HOUSEHOLDS IN AMERICA BUDGET.

NAMELY, ESTABLISH A CAPITAL BUDGETING PROCESS WHEREBY WE DISTINGUISH BETWEEN CAPITAL INVESTMENTS ON THE ONE HAND AND OPERATING EXPENSES ON THE OTHER. CAPITAL INVESTMENTS WOULD BE JUSTIFIED ON THE BASIS OF THEIR ABILITY TO GENERATE NEW WEALTH, AND THEREFORE REVENUE TO THE BUDGET. OPERATING EXPENSES WOULD BE JUST THAT AND THE CONGRESS WOULD BE PREVENTED FROM SPENDING ANY MORE MONEY IN ONE YEAR THAN IT TAKES IN.

MAKING SUCH A DISTINCTION WOULD BE INVALUABLE IN FOCUSING OUR ATTENTION ON THE FUTURE AND ASSESSING THE VALUE OF OUR INVESTMENTS AND THE IMPACT OF THOSE INVESTMENTS ON OUR ECONOMY. IT WOULD ALSO REQUIRE FISCAL RESPONSIBILITY AND DISCIPLINE IN SETTING OUR OPERATING BUDGET.

YOU HAVE AT LEAST ONE SUCH PROPOSAL BEFORE YOU. REPRESENTATIVE BOB WISE AND I HAVE DISCUSSED THIS ISSUE AND HE HAS MADE A DETAILED RECOMMENDATION THAT I FULLY SUPPORT.

AGAIN, I WANT TO EXPRESS MY APPRECIATION TO EACH OF YOU FOR TAKING ON THE TASK OF MAKING THIS INSTITUTION WORK BETTER FOR THE AMERICAN PEOPLE. I STAND READY TO ASSIST YOU IN ANY WAY THAT I CAN.

THANK YOU.

STATEMENT OF THE HONORABLE JAMES C. GREENWOOD
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
JUNE 16, 1993
on
H.R. 1349, The Franking Reform Act of 1993

Mr. Chairman. I appreciate the opportunity to testify today on an important and necessary reform affecting the franking privilege. H.R. 1349, the Franking Reform Act of 1993. I know that you share my belief that the electorate wants real Congressional reform and I hope I can count on you to support H.R. 1349, the *Franking Reform Act of 1993*.

The franking privilege was created to allow Members of Congress to communicate with their constituents and to keep them abreast of action on issues of importance in Washington. Unfortunately, too many Members skirt the law and use it to pay for self-promoting public relations mailings during the election cycle.

I was the victim of this practice in my campaign against an incumbent Member of Congress. I was approached by more than a dozen individuals complaining that they had received unsolicited frank correspondence from my predecessor just days prior to the General Election.

The Franking Commission clearly states that a Member may not send unsolicited mass mailings within sixty days of an election. The Commission defines a "mass mailing" as 500 pieces of mail or more. Unfortunately, many Members violate the law undetected by

the Franking Commission by mailing only bundles of 499 letters at a time. My constituents experienced first hand the ability of their Representative to blatantly circumvent the "mass mailing" restriction. The incumbent denied abusing the system, but only after the election were we able to demonstrate that he had not been telling the truth.

The facts finally emerged in a March 1993 report released by the National Taxpayers Union Foundation (NTUF). NTUF reported that as many as 24 members of the U.S. House of Representatives skirted franking laws by sending out thousands of pieces of unsolicited mail in the days leading up to the November 3, 1993 election.

The study found that while the overwhelming majority of House members apparently sent few, if any, unsolicited mass mailings during the 60 day ban, 24 House members had mailing patterns that suggest they took advantage of a loophole in the law that bans unsolicited mass mailings of over 500 pieces. During the 60 day ban, 24 House members sent approximately 300 unsolicited mass mailings of between 400 and 500 pieces, at a total cost to the taxpayer of \$109,314.

This taxpayer-financed propaganda mill must be stopped. We have a responsibility to close the loophole which allows incumbent candidates to bypass franking regulations and to send large numbers of unsolicited mailings to groups in excess of 500 individuals right up until Election Day. The Franking Commission

has had complaints that individual members are using the loophole to circumvent the law. Current regulations, however, make enforcement impossible.

My legislation, H.R. 1349, has been endorsed by the National Taxpayers Union. It would:

Prohibit an individual Member who has his or her name appearing on a ballot from sending out unsolicited mailings during the 60 days prior to an election. Three exceptions would be allowed:

- letters in direct response to incoming mail and telephone inquiries as long as those inquiries had been received within the last 60 days.
- communications from one Member of Congress to other Members of Congress, or to Federal, State or local government officials; or
- news releases to the communications media.

Compliance with a rule banning any unsolicited mailings during the 60 day period could be easily monitored by the public and enforced by the House. I encourage the Joint Committee to incorporate this legislation in its recommendations.

Thank you.

June 16, 1993

TESTIMONY OF
CONGRESSMAN NICK SMITH
BEFORE THE JOINT COMMITTEE
ON THE ORGANIZATION OF CONGRESS

Mr. Chairman, thank you for this opportunity to discuss how we can improve the operations of Congress. I have drafted and will soon drop a bill to require authorization committees to authorize funding for their programs at levels no greater than amounts provided under the budget resolution.

This idea came to me during the recent consideration of H.R. 820, the competitiveness bill. As a member of the Science, Space, and Technology Committee, I found it amazing that during the markup of H.R. 820 that authorizing committees were under no requirement to authorize amounts for existing and new programs within the amounts provided under Congressionally-passed budget resolution.

To me, it seems obvious that Congress should not be allowed to authorize funding at a level more than it has already agreed to limit spending.

Currently, the budget resolution requires direct spending to be distributed to authorizing committees and reconciled under reconciliation. Discretionary budget authority is allocated to appropriations by function.

The purpose of my bill is to require authorizing committees to limit authorizations for discretionary

programs to the same function levels as those provided to appropriators. While this would require additional breakdowns of function amounts by authorizing committee, these allocations would not require increases or decreases for any specific program. This discretion would be left to the authorizing committees.

Authorizing committees have the expertise and knowledge necessary to weigh the benefits and costs of increasing or cutting their programs. By not requiring these committees to operate in a "real world" funding environment, we fail to utilize all of our resources to adopt the best programmatic decisions.

Currently, authorizers are allowed to authorize amounts without regard to the budget resolution. This system leaves appropriators to make critical decisions of how much should be provided for new or existing programs. These decisions ought to be shared. Every Congressional Committee ought to work towards the same goal of balancing current program demands with spending limitations.

Mr. Chairman, I truly believe the Congressional decision-making process would be improved if authorizing committees would be required to be part of the deficit reduction effort.

Thank you again for this opportunity to speak before the Joint Committee on the Organization of Congress.

STATEMENT OF CONGRESSMAN DAVID MINGE
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
JUNE 16, 1993

Mr. Chairman and Fellow Colleagues, I appreciate the opportunity to express my views. Since I have no experience with the other body, my comments are limited to the House.

Basic reforms in four areas should be made if the House is to be more effective and better respected by the American people.

I. Selection and Tenure of Chairs and Leadership. The selection of Committee and Subcommittee Chairs and House Leadership should be without regard to seniority, and Chairs should serve limited terms not to exceed 4 years. The current system of selecting leadership on the basis of seniority and without any limit on tenure is inimical to the American experiment. It under-utilizes the talents and energies of less senior Members and limits the productivity of each Committee/Subcommittee.

Conflict of Interest. Any system poses a conflict of interest. As Chairs of Committees and Subcommittees, Members' allegiance should be to the House and to their Caucus. But as Members of Congress, our first thought is our constituents -- and the next election. Chairs can too easily use their position to advance legislation that benefits their constituents or bury that which hurts them. This not only includes legislation pending before their Committee and Subcommittee, but also with "logrolling" and "backscratching," it can reach to legislation elsewhere in Congress.

Chairs' longevity can distort the decision making process so as to favor certain parts of the country or economy and prevent the

freshness and creativity that comes with changing leadership. It can also allow for retribution against those that incur their ire. If Chairs continue for many years, their key staff aides may exert disproportionate influence over Committee/Subcommittee operations.

Career Politicians. The public's perception of career politicians has been increasingly negative. It has been said that the tradition in some states is to elect Members of Congress young and willing to stay. Members eventually become Chairs solely out of longevity. This works against Members first elected at an older age who have extensive life experience outside the political arena -- a valuable resource in this institution.

Multiple Chairs. Given the responsibility of chairing a Committee or Subcommittee, no one should serve as Chair of more than one at the same time.

The easy response to this criticism is that Chairs' are selected by secret ballot and that the voters are not compelled to re-elect Members. The fact is, however, that once elected a couple of times, absent an ethical or political lapse, Members are thereafter returned to Congress at a 95% plus rate. As for the selection of Chairs within the Caucuses and Committees, incumbents are continuously re-elected with only rare opposition. Others are unwilling to oppose an incumbent Chair for fear of losing and the resulting consequences.

II. Committee Jurisdiction. Committee jurisdiction is disparate. Three Committees have vastly greater power. As a result everyone wants to be on one of three Committees -- Ways & Means, Appropriations, and Energy and Commerce. All Committees should have comparable jurisdiction, and with each new Congress, jurisdiction

should be adjusted to maintain a balance.

Problems of overlapping jurisdiction are also well known. I will not further address these.

III. Committee Assignments.

Number and Proxies. No Member should serve on more than two Subcommittees. Members' energies are so diffused by the conflicting demands of family, constituent service and contact, re-election efforts, votes and a myriad of other activities, that Committee work is neglected. The size of Subcommittees, formalities of hearings, and difficulty of using hearings to become informed on issues, further undermine Committee work. With meeting attendance usually sparse, quality work in Committee/Subcommittee meetings is hard. Many Members simply do not keep up with what is happening on all their Subcommittees. Proxy voting has become a necessity.

Subcommittee work should be the focus of each member. Limiting membership to two Subcommittees and abolishing proxy voting is important to accomplishing that goal.

Changing Committees. Also, Members should be able to move from Committee to Committee without adverse consequences. If the change in the selection of Chairs occurs as I have advocated, one of the greatest impediments to mobility will be lifted. Seating and recognition of Members on a rotating basis at hearings and mark-ups will otherwise make such change easier. Now members are trapped on Committees because of the seniority approach to leadership.

IV. Concluding Comments. With the infusion of 110 new Members to this body came the expectation that this Congress would take great steps to reform the process. I submit that much of what our constituents want to see changed in Congress could be achieved

through changing the Committee system.

We face many challenges in the coming months -- the economy, health care and international crises. Now, more than ever, we need to tap the energy and talents of our freshest Members to complement the experience and expertise of our senior Members. I urge that this Committee recommend (1) limiting the tenure of our Chairs, (2) selecting Chairs on a basis other than seniority, (3) limiting Members to one Chair position, (4) limiting the number of Subcommittee assignments, (5) prohibiting proxy voting, and (6) equalizing the jurisdiction of Committees.

GAO

United States General Accounting Office

Report to the Chairman, Subcommittee
on the Civil Service, Committee on Post
Office and Civil Service, House of
Representatives

June 1991

GOVERNMENT SHUTDOWN

Permanent Funding Lapse Legislation Needed



GAO/GGD-91-78

further legislative action. Congress, however, has not yet acted to provide agencies authority to obligate funds during a lapse in appropriations, as we recommended.⁸

Conclusions

The Columbus Day weekend shutdown had significant adverse effects and did not convey to the public an image of a well-managed government. On the basis of responses from 22 executive branch agencies, the shutdown cost the taxpayers an estimated \$3.4 million, disrupted government operations, and adversely affected employee morale. Agencies also reported that the costs and disruptions would have been much more severe if the government were to shut down for a comparable 3-day period during a normal workweek.

There have been nine appropriations funding gaps in the last 10 years and at least four of these gaps resulted in some disruption of government services, which included some agencies sending employees home or telling them not to report to work. At the time of these personnel actions, the employees were reported as being furloughed by their agencies; however, beginning in 1984 Congress subsequently enacted legislation to retroactively pay furloughed federal employees following funding gaps. Thus, some of these shutdowns were clearly counterproductive because the employees were paid for time not worked.

In our opinion, shutting down the government during temporary funding gaps is an inappropriate way to encourage compromise on the budget. Beyond being counterproductive from a financial standpoint, a shutdown disrupts government services. In addition, forcing agency managers to choose who will and will not be furloughed during these temporary funding lapses severely tests agency management's ability to treat its employees fairly. While agencies estimated that over 500,000 federal employees would be subject to a furlough during the first day of a normal workweek, the vast majority of federal employees would not be subject to furloughs under a wide variety of exemptions.

⁸As we were preparing this report, a bill was introduced in the House (H.R. 804, 102nd Cong.) to provide new authority for an automatic continuing resolution that, although broader in scope than our recommendation, is aimed at preventing government shutdowns. The bill proposes to provide agencies continuing authority to incur obligations and make expenditures during a funding lapse, whereas our recommendation would limit agencies to incurring obligations, with no authority to expend until new appropriation authority is granted.

GEORGE W. GEKAS
17TH DISTRICT PENNSYLVANIA

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEES
ADMINISTRATIVE LAW AND GOVERNMENTAL
RELATIONS—RANKING MEMBER
CRIME AND CRIMINAL JUSTICE
SELECT COMMITTEE ON INTELLIGENCE



Congress of the United States
House of Representatives
Washington, DC 20515-3817

June 16, 1993

Statement of
Congressman George W. Gekas
before the Joint Committee on the
Organization of Congress

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Chairmen and distinguished members of the Joint Committee, I applaud your efforts and work in addressing the important issue of organizing a more efficient body of government for the integrity of the Congress. Today I would like to comment on two areas of government which I think could be improved. First, I would like to say a few words about the sensitive matter of classified information and the restructuring of a Joint Committee on Intelligence. And second, I would like to comment on our budget process and share with you legislation (I call it my "Instant Replay" bill) which I think would go a long way towards improving that process.

JOINT INTELLIGENCE

As a member of the House Permanent Select Committee on Intelligence and a Ranking Minority Member of the Subcommittee on Legislation, I am very concerned about and have actively sought to prevent security leaks of classified information. The original purpose of the House Permanent Select Committee on Intelligence was to establish a channel of communication between the Central Intelligence Agency (CIA) and the Congress. However, in the past decade, we have witnessed the purposeful leaking of classified information for political gain. While the committee has served as a useful conduit between the two entities, it is clear that modifications are need to improve upon the operation of the committee.

Unfortunately, the primary instinct of the Congress is, in most cases, politically motivated. This is contrary to the fundamental design of the CIA, which is to gather information for the sake of national security. In the past, the nature of these two bodies have clashed, resulting in the improper handling of classified information.

I recognize that some members in the Congress feel the need for classified information obsolete in light of the end of the Cold War. However, let me remind those members who believe the world is a docile environment, free of hostility and danger, about the emergence of nuclear technology in Korea and the Middle East. In my judgment we are entering into an era with far greater risk than in the past, largely because of the extremist temper of the leaders in these and other countries. There is no

Statement of the Honorable George W. Gekas
 Joint Committee on the Organization of Congress
 June 16, 1993
 Page two

doubt this is a crucial time for our national security and we must not let down our guard.

I present this statement to bring to the attention of the Joint Committee on the Organization of Congress a problem which exists and a recommendation to remedy that problem. I propose that the House and Senate Select Committees on Intelligence be consolidated into a single Joint Committee on Intelligence. The joining of these two committees would greatly reduce the likelihood of leaks which threaten our national security. I am certain that a single disclosure of classified information would streamline the current practice and diminish leaks. This joint committee would in no way obstruct the content or timeliness of the information now provided. Further, we could reduce the amount of staff, money, and time that is spent on what is now a redundant responsibility. This concept has the support of many of our colleagues and to date no reasonable argument has been made against moving forth with this refinement.

I believe the strongest evidence for my case to form a Joint Committee on Intelligence sits here before me, the Joint Committee on the Organization of Congress. Certainly, members of this committee would agree that it would have been imprudent and counterproductive to have created two separate committees on the organization of Congress. Why then do we have two separate committees on intelligence?

It is time we act to prevent the leaks which have become a common occurrence and agree to end the use of classified information for political purposes. We owe this to the intelligence community, the Congress, and the people of this nation for whom we serve.

"INSTANT REPLAY"

Secondly, I would like to address a problem which I believe to be inherent in our system of government, specifically relating to our budget process. What I am referring to is the possibility of a government shutdown if Congress and the Administration cannot agree on a budget by September 30 of every year. I think this is unnecessary.

Such a shutdown is financially counterproductive and disruptive for both the government and those who contract with or benefit from the government.

Since 1980, there have been nine appropriations funding gaps. At least four of the gaps have resulted in some disruptions in government services and included some agencies sending employees home or telling them not to report to work.

Statement of the Honorable George W. Gekas
 Joint Committee on the Organization of Congress
 June 16, 1993
 Page three

Some examples of this waste are as follows:

On November 23, 1981, the government spent \$5.5 million to send some workers home. But the government eventually paid those workers the \$9 million they would have earned had they worked.

The government-wide furlough in 1986 cost the taxpayers about \$33 million and employees were retroactively paid for work they did not do.

Over Columbus Day Weekend (Oct 6-8, 1990), federal agencies were ordered to shut down. Overall, 7 of 22 agencies reported costs of around \$3.4 million, due to lost revenue, administrative costs for shutdown operations, and retroactive payment of nonessential employees who did not report to work.

Every time the government has furloughed federal employees, it has paid them retroactively for work that was not done. This practice results in a complete waste of federal funds, a loss in productivity and undue complications for anyone who contracts with the government, not to mention the extra burden placed on those employees who are not furloughed but left to do the job of three people.

My legislation would save the federal work force the anxiety of possible furloughs and save Members of Congress both the time and the effort that they spend on continuing resolutions and allow them to focus on the task at hand--the budget. The Government Accounting Office agrees with me that there is a need for permanent funding lapse legislation. In fact, my legislation, H.R. 804, was cited in their June 1991 report (GAO/GGD-91-76) as a possible solution to the problem of government shutdowns. For further details, I recommend that you read this report, a copy of which I am submitting for your review.

I would be more than happy to work with you in any way possible to eliminate future government shutdowns and address what I believe to be a fundamental flaw in the budget process.

In closing, I would like to thank the Joint Committee on the Organization of Congress for allowing me to speak on these issues and have an opportunity to participate in your very worthy efforts.

103D CONGRESS
1ST SESSION

H. R. 675

To amend title 31, United States Code, to provide an automatic continuing appropriation for the United States Government.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. GEKAS introduced the following bill; which was referred jointly to the Committees on Appropriations and Rules

A BILL

To amend title 31, United States Code, to provide an automatic continuing appropriation for the United States Government.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AUTOMATIC CONTINUING RESOLUTION.**

4 (a) IN GENERAL.—

5 (1) Chapter 13 of title 31, United States Code,
6 is amended by inserting after section 1310 the fol-
7 lowing new section:

8 **“§ 1311. Continuing appropriations**

9 “(a)(1) If any regular appropriation bill for a fiscal
10 year does not become law prior to the beginning of such

1 fiscal year, there is appropriated, out of any moneys in
2 the Treasury not otherwise appropriated, and out of appli-
3 cable corporate or other revenues, receipts, and funds,
4 such sums as may be necessary to continue any project
5 or activity for which funds were provided in the preceding
6 fiscal year—

7 “(A) in the corresponding regular appropriation
8 Act for such preceding fiscal year; or

9 “(B) if the corresponding regular appropriation
10 bill for such preceding fiscal year did not become
11 law, pursuant to this section.

12 “(2) Appropriations and funds made available, and
13 authority granted, for a project or activity for any fiscal
14 year pursuant to this section shall be at a rate of oper-
15 ations not in excess of the lower of—

16 “(A) the rate of operations provided for in the
17 regular appropriation Act providing for such project
18 or activity for the preceding fiscal year, or

19 “(B) in the absence of such an Act, the rate of
20 operations provided for such project or activity pur-
21 suant to this section for such preceding fiscal year.

22 “(3) Appropriations and funds made available, and
23 authority granted, for any fiscal year pursuant to this sec-
24 tion for a project or activity shall be available for the pe-

1 riod beginning with the first day of such fiscal year and
2 ending with the earlier of—

3 “(A) the date on which the applicable regular
4 appropriation bill for such fiscal year becomes law
5 (whether or not such law provides for such project
6 or activity), and

7 “(B) the last day of such fiscal year.

8 “(b) An appropriation or funds made available, or au-
9 thority granted, for a project or activity for any fiscal year
10 pursuant to this section shall be subject to the terms and
11 conditions imposed with respect to the appropriation
12 made, funds made available, or authority granted for such
13 project or activity for the preceding fiscal year.

14 “(c) Appropriations and funds made available, and
15 authority granted, for any project or activity for any fiscal
16 year pursuant to this section shall cover all obligations or
17 expenditures incurred for such project or activity during
18 the portion of such fiscal year for which this section ap-
19 plies to such project or activity.

20 “(d) Expenditures made for a project or activity for
21 any fiscal year pursuant to this section shall be charged
22 to the applicable appropriation, fund, or authorization
23 whenever a regular appropriation bill providing for such
24 project or activity for such period becomes law.

1 “(e) No appropriation is made by reason of subpara-
2 graph (B) of subsection (a)(1) for a fiscal year for any
3 project or activity for which there is no authorization of
4 appropriations for such fiscal year.

5 “(f) This section shall not apply to a project or activ-
6 ity during a fiscal year if any other provision of law (other
7 than an authorization of appropriations)—

8 “(1) makes an appropriation, makes funds
9 available, or grants authority for such project or ac-
10 tivity to continue for such period, or

11 “(2) specifically provides that no appropriation
12 shall be made, no funds shall be made available, or
13 no authority shall be granted for such project or ac-
14 tivity to continue for such period.

15 “(g) For purposes of this section ‘regular appropria-
16 tion bill’ means any regular appropriation bill (within the
17 meaning given to such term in section 307 of the Congres-
18 sional Budget Act of 1974 (2 U.S.C. 638)) making appro-
19 priations, otherwise making funds available, or granting
20 authority, for any of the following categories of projects
21 and activities:

22 “(1) Agriculture, rural development, and relat-
23 ed agencies programs.

24 “(2) The Departments of Commerce, Justice,
25 and State, the judiciary, and related agencies.

1 “(3) The Department of Defense.

2 “(4) The government of the District of Colum-
3 bia and other activities chargeable in whole or in
4 part against the revenues of the District.

5 “(5) The Departments of Labor, Health and
6 Human Services, and Education, and related agen-
7 cies.

8 “(6) The Department of Housing and Urban
9 Development, and sundry independent agencies,
10 boards, commissions, corporations, and offices.

11 “(7) Energy and water development.

12 “(8) Foreign assistance and related programs.

13 “(9) The Department of the Interior and relat-
14 ed agencies.

15 “(10) Military construction.

16 “(11) The Department of Transportation and
17 related agencies.

18 “(12) The Treasury Department, the U.S.
19 Postal Service, the Executive Office of the President,
20 and certain independent agencies.

21 “(13) The legislative branch.”.

22 (2) The analysis of chapter 13 of title 31, Unit-
23 ed States Code, is amended by inserting after the
24 item relating to section 1310 the following new item:

“1311. Continuing appropriations.”.

6

1 (3) The amendments made by this subsection
2 shall apply with respect to fiscal years beginning
3 after September 30, 1993.

4 (b) POINT OF ORDER AGAINST CONTINUING RESO-
5 LUTIONS.—

6 (1) It shall not be in order in the House of
7 Representatives or the Senate to consider or to vote
8 on the question of agreeing to any bill or joint reso-
9 lution making continuing appropriations for a fiscal
10 year or any conference report thereon.

11 (2) Paragraph (1) may be waived or suspended
12 in the Senate by a vote of three-fifths of the Mem-
13 bers, duly chosen and sworn.

14 (3) If the ruling of the presiding officer sus-
15 tains a point of order raised pursuant to paragraph
16 (1), a vote of three-fifths of the Members duly cho-
17 sen and sworn shall be required to sustain an appeal
18 of such ruling. Debate on any such appeal shall be
19 limited to two hours, to be equally divided between,
20 and controlled by, the majority leader and the mi-
21 nority leader or their designees. An appeal of any
22 such point of order is not subject to a motion to
23 table.

○

Testimony of the Hon. Paul E. Kanjorski
to the
Joint Committee on the Organization of Congress

June 16, 1993

Mr. Chairman, members of the Joint Committee, I appreciate this opportunity to testify today on an issue I have felt strongly about for many years: the need for a major overhaul of Congressional operations. Just as President Clinton is trying to "reinvent" the Executive Branch of our government, it is our responsibility to "reinvent" the Legislative Branch to make it more responsible and efficient.

There is virtually unanimous agreement that American people today are tired of gridlock and politics as usual. So, too, are many of us in the Congress. The Congress must become more efficient and responsive to the needs of our nation. Over the past several decades our founding fathers' vision for our government has become so bogged-down in checks and balances that it is almost impossible to get anything done.

My overriding message to you today is to be bold and insist on major changes in the way we operate, not just minor changes. Our ship of state has become a Titanic which needs a total change in direction, not just a mid-course correction.

Our antiquated Committee system is the single most obvious example of the need for wholesale change. It has not been meaningfully overhauled since the adoption of the Legislative Reorganization Act of 1946. Look at what has happened in the Executive Branch since 1946. Only seven of the Cabinet departments which existed in 1946 exist today. Six new cabinet-level departments have been created since 1946 and a seventh, the War Department, has been totally restructured.

Our Committees must be reorganized to more closely track the structure of the Executive Branch, they must be more co-equal, the total number of Committees must be reduced, and the jurisdictions of House and Senate committees should be made more uniform. Members should serve on only one committee, Senators on no more than two, and most of our minor committees should be folded into the major committees. This may require some adjustments, and it may upset some fiefdoms and some special interests, but it must be done. In the process, the joint referral of legislation in the House should become the exception, not the rule.

There is no better time to make this kind of a major change than when Freshmen and members who are new to their committees make up such a large proportion of the House.

A second major area for change is the disastrous budget process which continues to bring us monstrous deficits, and where the bidding for votes has become so intense that small, unrepresentative groups, and often even individual House and Senate members are able to hold the entire Congress hostage to their demands to placate their pet project or special interest. The demand for super-majorities of 60% of the Senate on many budget issues makes it particularly susceptible to this form of "budgetary blackmail." These special interests and their Congressional sponsors have replaced democracy with the tyranny of the minority.

We can help to break budgetary gridlock by switching to a two-year budget cycle which will give both the Executive and Legislative Branches more time to plan, and by combining the authorizing and appropriations process and then staggering the dates of the biennial authorization and appropriations bills. This streamlines the budgetary process by eliminating one-third of the budget/authorization/appropriations maze, and it will have the positive salutary effect of eliminating the incessant fights between authorizing and appropriations committees.

Third, we need to do a better job of coordinating priorities and schedules between the two houses of the Congress, and the two branches of the government. It makes no sense for the House, the Senate, or the Executive Branch to waste time on legislation if one or more of the other parties is unwilling to seriously consider it. Since there is not enough time to do everything, the leadership, in consultation with the President, must set priorities and a schedule that are realistic and achievable.

In the Congress, we must also remember that in addition to passing new laws, it is additionally our responsibility to see to it that existing laws are "faithfully executed" by the Executive Branch. Effective oversight may not be as exciting to the press as a bill-signing ceremony, but particularly in terms of our budget, it is just as important. At times when the Legislative and Executive Branches are controlled by the same party, there should be better use, either on a formal or informal basis, of the expertise of the Congress by the Executive Branch, much along the lines that a parliamentary government uses its experts to set the direction of government agencies. If the Executive Branch makes better use of the expertise of members of the Legislative Branch it will find that legislators will become partners instead of bomb-throwers. If House Members and Senators are given responsibility they will respond positively.

Fourth, we must get rid of rules and procedures which waste our time and unnecessarily restrict the will of the majority. While the majority should not tyrannize the minority it is a waste of time for House Members to be running back-and-forth from

Committee meetings or their offices to the floor for meaningless votes, to require the reading of documents which are available to all Members in printed form, or to require Senators to go through the motions of quorum calls when what they really need is for the presiding officer to have the right to call short recesses when necessary. Similarly, Senators should not be able to filibuster a bill, the motion to proceed to the consideration of a bill, and the conference report on a bill. The Senate also needs tighter germaneness rules so that there are fewer opportunities for Senators to grandstand for the press and the folks back home. Time is our most precious resource as Members of Congress and much too much of it is being wasted. House Members and Senators do not object to the long hours their jobs require; they know that long hours go with the territory. They do, however, object to wasted time.

Fifth, we must get our financial and administrative houses in order. While some progress has been made by turning over many administrative functions to a non-partisan Director of Non-Legislative Operations in the House, and by eliminating a number of our committees and subcommittees, more can be done. Committee consolidation as recommended above, can save significant amounts.

Since the expenditure of every dime of the Congress is already spelled-out in the quarterly reports of the Clerk of the House and the Secretary of the Senate, millions of dollars could be saved by the elimination of the scores of clerks and bureaucrats who require massive amounts of paperwork to accomplish the smallest task, and whose lives are dedicated to the proposition that, "you cannot get there from here." We operate under an archaic system of rules which were last published in 1985, which have been amended many times since then, and which when they were reconsolidated this year for freshmen in a new handbook, the handbook was so sloppily done that it had to be recalled.

My subcommittee staff must obtain approval from four separate offices before it can acquire a box of paper clips. My personal office was told that we could not buy an overhead projector to use at town meetings, yet we can buy a VCR. The House regularly pays substantially above market prices for computers and office equipment. Within the last month my staff was told that in order to link our computers we must pay \$500 to buy co-axial cable from a House-approved vendor that could be purchased from Radio Shack for \$80. The list of idiosyncrasies and absurdities is endless. It would never be tolerated in the private sector.

In the final analysis, we are all accountable to our constituents. If there is full disclosure of how we spend our office accounts, and there is such disclosure, we could save massive amounts on administration by giving Members a much freer hand with how they spend their funds, particularly for items where there is a viable free market. If a House or Senate bureaucracy can save us money by negotiating bulk purchases of products, more power to them, but they should not get in the way and raise the cost of goods and services used by the Congress.

Sixth, it is time for the Congress to get ready for the 21st century. Technology has changed and we have been very slow to adapt. There is no reason why every major federal publication (e.g. the *Congressional Record*, the *Federal Register*, the *U.S. Code*, the *Code of Federal Regulations*, the *Catalog of Federal Domestic Assistance*, bills, amendments, hearings, committee and conference reports, public laws, and Census data) should not be available on-line for current information, and on CD-ROM for older information (i.e. last year's or last Congress' data). How many trees could we save and how much precious space in our offices could we save if this information was easily available electronically.

Some of this data is available on-line, but not in a usable form. When my staff tried to obtain three sections of the current version of the reconciliation bill, for example, they were told that they computer could find them but in order to display them they would have to scroll through more than 700 previous pages of text because there was no way to give the computer the command to move from page 1 to page 720. Virtually none of this data is available on CD-ROM unless an office wants to pay a fortune, even though it is all data compiled by the U.S. Government. The GPO, the Census Department, and whoever else has this data, should be required to provide it to us in a usable format without cost.

In the 20th century, information has become power, and it should be available to all Members, on an equal basis. Furthermore, now that the Berlin Wall has fallen, substantially less information should be classified and kept from the American people and their representatives. Most Americans would be horrified if they knew how much of our budget was still being wasted on left-over, Cold-War, "black budget" idiosyncrasies. Just as an informed electorate is an enlightened electorate, an informed Congress is an enlightened Congress.

Seventh, and finally, once we have revised our operations we must do a better job of explaining how we operate to the American people, and to reduce the incentive for House Members and Senators to denigrate the institution in which we serve. If we do not respect ourselves we cannot expect others to respect us.

When I was a child most Americans looked up to the President and the Congress. The idealism represented in *Mr. Smith Goes to Washington* was instilled in all citizens and led me to become a page in this great institution in 1953-1954. Since that day our government has become more open. Women and minorities have run for President and Vice President, and are better represented in the House and Senate than they ever have been. The American dream that any child can grow up to become a major leader in government is more true today than it ever has been before. Yet at the same time cynicism and dissatisfaction with government in general and the Congress in particular are at an all-time high.

We owe it to our constituents, and to future generations of Americans, to cure what a former Chairman of the House Rules Committee, Richard Bolling of Missouri, called *A House Out of Order*. The cure may not be easy, and it may require us to step on many toes, but it must be done. Above all else, I urge this Committee to be bold in its prescription or it will doom itself to almost certain failure.

If not us, who?

If not now, when?

Testimony of Representative Bob Goodlatte
before the Joint Committee on the Organization of Congress
June 16, 1993

Distinguished Chairman and Members of the Committee, thank you for the opportunity to testify before you today. As one of the 114 new members of Congress, I would like to share with you some of my concerns regarding the way this institution exempts itself from the laws.

I frequently hear from constituents back home in my 6th District of Virginia who are outraged that Congress regularly places itself above the law. I tell them I agree and that if the Congress were subject to the same laws they pass for everybody else, then maybe they would appreciate the burdensome nature of federal regulations and start writing laws with a sharper pencil.

I believe we would also exercise greater oversight of the promulgation of regulations by federal agencies because we would better understand their application and impact.

It is a double standard that Congress can ask a small business to comply with safety and labor laws and not have to comply itself. I'm sure you all have heard from constituents who are frustrated with the myriad of Federal regulations and mandates on business. Many of these regulations are onerous and unnecessary.

For example, one small business owner in Allegheny County Virginia who had just undergone a surprise inspection by OSHA bureaucrats told me that OSHA told him he had the safest, best run facility they had ever inspected. Then they fined the small business owner \$1,300 for not having his paperwork up to date. I guess the paperwork was to prove that he had the best run facility every other day of the year.

Recently John Boehner, a colleague of mine on the Agriculture Committee, called for an audit of several offices on Capitol Hill. The 140 cited violations of OSHA would have cost Congress almost \$1 million in fines if Congress had not exempted itself from OSHA law.

By exempting ourselves from laws, we are denying members the opportunity to experience firsthand the effects of the laws we pass.

A comparison can be drawn between Congress and executives at General Motors, America's largest corporation. Ross Perot, while serving on GM's board, tried to put an end to the practice of top level executives trading in their company car for a new one any time there was a problem. Mr. Perot wanted executives to "take their car to the local dealership to have it repaired...to see firsthand what its customers were thinking, feeling, and experiencing." Without similar hands-on experience, Congress can't appreciate the frustrations of ordinary Americans who must deal with thousands of annoying, costly regulations and laws.

As you all know, when Congress recently passed the Family and Medical Leave Act it once again chose to exempt itself.

Last month one of my district staffers told me she was pregnant and expressed uncertainty over my office maternity leave policy. When I told her she would get the same amount of leave as is provided under the Family and Medical Leave Act she reacted with surprise. Just like every other Congressional employee, she had no assurance that she would

get the amount of leave that Congress has guaranteed other employees.

I believe it was a mistake to remove the ability of businesses and employees to negotiate mutually acceptable benefits, and instead force them to adhere to a "one size fits all" federal mandate. But even though I voted against the legislation, I believe that Congress should apply all laws it passes to itself.

Family and Medical Leave Act and the Occupational Safety and Health Act are just some of the laws from which Congress has exempted itself. Others include the Americans with Disabilities Act, the Fair Labor Standards Act, the Minimum Wage Act, Equal Employment Opportunity Act, the Freedom of Information Act, the Age Discrimination in Employment Act, the Privacy Act, the Ethics in Government Act and at least a dozen more.

I support the efforts of Congressmen Shays and Swett to put forward legislation that would reverse this trend. As a cosponsor of the Congressional Accountability Act, I am continuing to look for solutions to what I believe are constitutional questions raised by the various bills introduced thus far. The Congressional Accountability Act settles the separation of powers problem by establishing an independent Office of Compliance to ensure the enforcement of these laws. This office would be very similar to the Office of Fair Employment Standards.

It is also my hope that making Congress subject to the laws we pass will create greater interest in this body in examining and overseeing the enormous body of regulations put forth by the various departments and agencies of the executive branch.

It would create greater interest in looking before we leap by requiring economic impact studies of new and current regulations. It would, I hope, generate support for more sunset laws requiring Congress to act again after regulations have taken effect and after we have had input from our constituents, businessmen and women, workers and consumers about the impact these regulations have upon productivity, profitability and the loss of jobs in our economy.

Finally, it would I believe, create greater support for independent review of the regulatory process which currently places all power in the hands of the regulatory agency. The same agency which draws power and justification for its existence and the expansion of its budget and staff by enforcing regulations is the agency that now writes them. This is a system without adequate checks and is out of control in its damaging impact on our economy. But the road to reform must begin here in the Congress where we must take responsibility for our own work by making ourselves subject to the laws of the land.

As a member of the Freshman class I am proud to be associated with a group of reformers. I believe that our ideas will make a difference if we all work together. I urge the Joint Committee to endorse the initiatives calling for Congress to abide by all laws and I thank you for the opportunity to testify today.

TILLIE K. FOWLER
4TH DISTRICT FLORIDA

ARMED SERVICES COMMITTEE

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FACILITIES
MILITARY FORCES AND
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**JOINT STATEMENT BY REP. TILLIE K. FOWLER
AND PETER G. TORKILDSEN
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
JUNE 16, 1993**

MRS. FOWLER, MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR ALLOWING US THIS FINAL OPPORTUNITY TO ADDRESS YOU. AS MEMBERS OF THE LARGEST FRESHMAN CLASS IN RECENT HISTORY WE ARE WELL AWARE OF THE UNIQUE OPPORTUNITY WE HAVE TO AFFECT CHANGE IN THIS BODY. WE ARE AIDED IN THE FACT THAT OUR MORE SENIOR COLLEAGUES HAD THE WISDOM AND FORESIGHT TO CREATE THIS JOINT COMMITTEE TO IMPLEMENT MANY OF THE CHANGES ON WHICH WE WERE ELECTED.

AS A NEW MEMBER, I AM ROUTINELY ASKED WHAT MY GREATEST DISAPPOINTMENT HAS BEEN SINCE MY ELECTION LAST NOVEMBER.

I ANSWER THAT QUESTION BY EXPLAINING MY DEEP DISAPPOINTMENT IN THE BITTER PARTISANSHIP THAT SEEMS TO HAVE SPLIT THIS BODY RIGHT DOWN THE MIDDLE.

SOME OF MY COLLEAGUES MAY NOT SHARE MY DISAPPOINTMENT. BEING NEW TO THE HOUSE, THEY MAY THINK THAT IS WHAT THE CENTER AISLE IS ALL ABOUT. I GUESS HAVING WORKED ON CAPITOL HILL AS A LEGISLATIVE ASSISTANT 25 YEARS AGO--ON THE OTHER SIDE OF THE AISLE FROM WHERE I NOW SIT--GIVES ME A DIFFERENT PERSPECTIVE. I KNOW THAT THINGS HAVE BEEN--AND COULD BE--MUCH BETTER.

I DO NOT KNOW WHAT HAS HAPPENED BETWEEN THEN AND NOW, BUT I DO KNOW THE PARTISANSHIP THAT GRIPS THIS CONGRESS IS NOT GOOD FOR OUR COUNTRY. WE FACE SOME OF THE MOST DIFFICULT CHALLENGES IN OUR NATION'S HISTORY TODAY, AND TALKING ABOUT A DEMOCRATIC SOLUTION, OR A REPUBLICAN ALTERNATIVE, IS NOT GOOD ENOUGH ANY MORE.

THE ONLY WAY WE CAN MEET THE CHALLENGES OF TODAY IS BY WORKING TOGETHER TO CREATE AN AMERICAN SOLUTION.

ONE OF THOSE GREAT CHALLENGES IS THE REFORM OF CONGRESS. I REALIZE THAT I AM PREACHING TO THE CHOIR WHEN I TALK ABOUT WORKING TOGETHER FOR REFORM TO THE MEMBERS OF THIS COMMITTEE. REALIZING THE MAGNITUDE OF THIS CHALLENGE, YOU FORMED A BI-PARTISAN, BI-CAMERAL COMMITTEE--ONE OF THE FEW THIS INSTITUTION HAS EVER SEEN. IT IS A GREAT START.

OUR PURPOSE FOR BEING HERE TODAY IS TO LET YOU KNOW THAT THE 113-MEMBER FRESHMAN CLASS IS WILLING TO WORK TOGETHER TO HELP YOU REALIZE YOUR CHALLENGE.

WHEN WE LAST APPEARED BEFORE THIS COMMITTEE, WE TESTIFIED SEPARATELY AND PRESENTED YOU WITH A REPUBLICAN FRESHMAN REFORM PACKAGE AND A DEMOCRATIC FRESHMAN REFORM PACKAGE.

AT THAT TIME WE INDICATED TO YOU THAT WE HOPED TO GET TOGETHER AND FIND AREAS OF COMMON INTEREST WHERE WE COULD WORK TOGETHER.

I AM PLEASED TO REPORT TO YOU TODAY, MR. CHAIRMAN, THAT WE HAVE DONE JUST THAT.

THROUGH A SERIES OF BI-PARTISAN MEETINGS BETWEEN THE FOUR OF US, WE IDENTIFIED OVERLAPPING REFORMS IN OUR TWO PACKAGES AND AGREED TO WORK FOR THEIR ENACTMENT AS A TEAM.

MR. TORKILDSEN, I WANT TO ALSO THANK YOU FOR YOUR INTEREST IN WHAT THE FRESHMAN CLASS IS DOING. IN THE PAST THE REFORMS SUGGESTED BY FRESHMEN WERE OVERLOOKED OR EVEN VIGOROUSLY FOUGHT BY MORE SENIOR MEMBERS. BUT THIS YEAR YOU AND OTHER MEMBERS OF CONGRESS ARE SHOWING SERIOUS INTEREST IN MAKING THIS INSTITUTION FUNCTION BETTER. AND THAT ATTITUDE HAS ALLOWED US TO BE SUCCESSFUL.

WE HAVE WORKED TOGETHER TO HELP GET 225 COSPONSORS FOR THE SHAYS/SWETT CONGRESSIONAL ACCOUNTABILITY ACT APPLYING ALL LAWS TO CONGRESS. EVERY SINGLE REPUBLICAN FRESHMEN AND MOST OF THE DEMOCRAT FRESHMEN SIGNED ON THIS LEGISLATION AND HAVE HELPED MOVE IT THROUGH THE LEGISLATIVE PROCESS.

WE HAVE ALSO WORKED TOGETHER, WITH THE STRONG SUPPORT OF CONGRESSMAN PORTER GOSS, TO LIMIT THE FORMER SPEAKERS FUND IN THE LEGISLATIVE APPROPRIATIONS BILL. WHILE THERE WERE DIFFERENCES ON THE ISSUE, WE WORKED OVER THEM AND SUCCESSFULLY PASSED AN AMENDMENT ON THE FLOOR OF THE HOUSE. WE ARE NOW WORKING TO PASS A SIMILAR AMENDMENT THIS WEEK ON THE FUND FOR FORMER PRESIDENTS.

IN ADDITION TO THESE PROPOSALS, WE ARE CONTINUING TO FIND REFORM ISSUES THAT FIT BOTH PARTIES AGENDAS. WE ARE FINDING COMMON GROUND ON CAMPAIGN FINANCE REFORM, LOBBYING REFORM AND GOVERNMENT WASTE ISSUES. THESE ARE PROBLEMS BOTH PARTIES WANT CHANGED, AND WE ARE WORKING TO FIND AGREEABLE SOLUTIONS FOR BOTH SIDES OF THE AISLE.

WHILE WE DO HAVE DISAGREEMENTS, WE WORK UNDER THE PREMISE THAT REFORM IS NECESSARY. AND THIS PREMISE KEEPS US MOVING TOWARDS OUR GOAL. THE BUMPS ARE ALWAYS MINOR WHEN YOU KEEP YOUR EYE ON YOUR DESTINATION AT THE END OF THE ROAD. AND THAT IS THE ADVICE THAT I LEAVE WITH YOU TODAY. IF YOU ARE SERIOUS ABOUT REFORM, AND I BELIEVE EVERY MEMBER IN THIS ROOM IS, THEN YOU WILL BE ABLE TO COME UP WITH SERIOUS REFORM PROPOSALS. IF YOU WORK ON THIS ISSUE AS WE HAVE BEEN WORKING OVER THE PAST FEW MONTHS, THEN YOU WILL BE SUCCESSFUL.

I THANK YOU AGAIN FOR HEARING US TODAY. WE APPRECIATE THE SUPPORT YOU HAVE GIVEN US AND WE WOULD LIKE TO OFFER YOU OUR SUPPORT IN YOUR EFFORTS. CHANGE IS ALWAYS A DIFFICULT THING TO ACHIEVE, BUT WITH A WILLINGNESS TO WORK HARD, A STRONG DESIRE FOR REAL RESULTS, AND AN APPRECIATION FOR BI-PARTISAN SOLUTIONS, YOU WILL SURELY SUCCEED.

House of Representatives
Washington, DC 20515

TESTIMONY OF ERIC FINGERHUT AND KAREN SHEPHERD
CO-CHAIRS
DEMOCRATIC FRESHMAN TASK FORCE ON REFORM

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

JUNE 16, 1993

Chairman Hamilton, Chairman Boren, Vice Chairman Domenici, Vice Chairman Dreier, and members of the Joint Committee on the Organization of the Congress, thank you for inviting us to testify before your committee again. We appear before you one last time as your hearings draw to a close with final comments on the direction of your reform efforts.

Members of the Committee, we are very pleased to be here today with our Republican colleagues, Tillie Fowler and Peter Torkildsen, who led a reform effort in their caucus similar to ours. Indeed, over the last several months, the four of us have met a number of times to discuss similarities in our packages and how we can act together to implement these recommendations. We are proud of the bipartisan nature of these meetings, and we hope that you, as a bipartisan committee, will follow our lead and act with comity and good will as you craft your own recommendations.

We have already achieved success with our Republican counterparts in two areas of reform. Together, we rallied our Freshman colleagues from both sides of the aisle in support of the Congressional Accountability Act, legislation which, as you know, would subject Congress to the laws that it passes. When we found that passage of this legislation was recommended in both of our packages, we worked together to add cosponsors to the bill that put the number at over half of the House. We intend to continue to push this issue.

Additionally, the four of us offered an amendment to the FY 1994 Legislative Branch Appropriations bill that would limit the funding for the staff and offices of former speakers of the House--another recommendation from both of our packages. The Shepherd/Fingerhut/Fowler/Torkildsen amendment was adopted by an overwhelming majority, and another point was scored for bipartisan reform.

We look to the future now--to other reform efforts that we can undertake together. The Freshman Republicans have released campaign finance reform proposals which in a number of respects parallel those in our reform package. The four of us intend to urge the House to implement these reforms in the areas of limiting PAC contributions, lobbyists' disclosure, and

restricting soft money.

Since we have already testified before you with details of the Freshman Democratic Reform Package, we will not go into it again. Suffice it to say that we have learned a lot about the way that this institution works--in other words, we have begun to see what works in this institution and what doesn't work.

As we try to implement the recommendations of our package, we are learning about the practical realities of bringing about comprehensive change. As you well know, it is not easy, and we wish you the best of luck in your efforts to prepare your own package of recommendations.

In our final appearance before you, we would like to focus on two aspects of congressional operations which are of particular concern to us and about which we have heard the most from our fellow freshmen: the schedule and the committee system. Indeed, these two issues are closely linked.

Time and time again we have said that the schedule is the number one problem among new--and more senior--members. There is simply not enough time for members to attend all of the committee meetings and ad hoc meetings and floor activities that they are invited to. Members generally sit on two committees and five subcommittees. This involves being asked to attend four or five hearings or mark-ups a week. Such meetings are of varying lengths, but usually average three hours apiece. As you know, most members rarely stay at committee meetings for the duration. Members come and go at will--often in the middle of a witness' testimony. In any other circumstance, it would be considered the height of rudeness for someone to stand up and leave the room while another person is speaking. Here in Congress, it is normal procedure.

Let's think about why we leave hearings before they are over. Generally, we leave to attend other meetings or because we want to attend to business on the floor of the House. Or, we may have appointments in our offices, or we might have a meeting with another member in his or her office.

As you know, what compounds this problem is that all of these meetings and all of the floor activity is usually compacted into three very long days. Meetings overlap with meetings and with floor activity because with only three days of business, committee chairs and the leadership have few options. They must schedule meetings and floor votes when members are going to be here, and members are only going to be here when there are floor votes or mandatory meetings.

The current schedule is simply not efficient, nor is it conducive to thoughtful consideration of legislation. Simply put, there is not enough time for members to think when it is all they can do to keep up with the physical demands of their

schedules. We are working hard to go to the meetings which demand our presence, and we will continue to work hard. However, we would also like to have the luxury of being able to work hard to understand an issue completely or to prepare adequately for a witness' testimony before one of our committees.

Our current Tuesday-Thursday schedule leads to a great deal of inefficiency and contributes as well to considerable family stress on members. We work late, leaving little quality time for our families. Mondays and Fridays are taken up by business in our districts and then travel between Washington and home.

In your deliberations, please consider recommending a scheduling change that would provide us with more quality time both here and in our districts. Think about recommending what we've heard so much about--a program of three five-day work weeks and then a district work period of the same length. This would provide us with more concentrated quality time for ourselves and for our constituents. We are convinced that this change would result in more work, better work, and more thoughtful consideration of the issues of the day.

Also on your docket is the committee system and how it should be changed. Please give this careful consideration. Think about changing the committee structure so that members are not torn between committee meetings. Think about changing the committee structure so that members do not feel obliged to stretch themselves between five subcommittees so as to have an input into as many issues as possible.

There is no doubt in anyone's mind that most of the significant work in the Congress gets done on the committee level, and not on the House floor. Therefore, incoming members expend an enormous amount of energy trying to be seated on one of the two or three major committees which have the broadest jurisdiction and which wield the greatest amount of power. The members who are not lucky enough to be seated on one of these committees then try to place themselves on as many other committees or subcommittees as possible in order to expand their jurisdiction as committee members. Members even request waivers to sit on more than the five subcommittees than are presently allowed.

Think about a major reorganization of committee jurisdiction. For the most part, the committee structure has not changed significantly in the last forty years in spite of the fact that our country's priorities have certainly changed. Think about changing the current committee structure. Establish more rational standards for committees so as to reduce multiple committee referrals and to divide Congress' work more evenly. Such changes will have a good chance of success if they are accomplished without reducing members' abilities to influence policy-making. Be bold in your recommendations. Something needs to be done and it needs to be done immediately.

Again, we wish you the best of luck. Preparing the Freshman Democratic Reform Package was, on a much smaller scale, similar to what you will do after today. Given the extraordinary amount of time and thought that went into our package, your task seems enormous. Please call upon us if there is any way that you feel we can be of assistance to you. And, again, thank you for allowing us to testify before you.

TESTIMONY OF
SENATOR BYRON L. DORGAN
before the
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
JUNE 29, 1993

I have served in both the U.S. House and the U.S. Senate for over a dozen years now, and I'm here today at your request to offer some suggestions on how Congress might better meet its responsibilities.

First off, we have to face one thing: our Constitution was designed as much to frustrate government action as to promote it. That's the concept of checks and balances.

In particular, the Framers of our Constitution designed Congress to be deliberative; they wanted new legislation to overcome substantial obstacles before being enacted. The very notion of having two separate legislative bodies -- the House and the Senate -- is a duplication of effort, but it is designed to provide certain checks and balances within the legislative branch.

It is not efficient. That's clear. But it is effective in accomplishing what the Framers of our Constitution had in mind. They wanted new legislation to have to be put through an obstacle course in order to achieve passage, and that still remains the case today in Congress.

My recommendations today are not designed to remove these checks and balances. Rather, my suggestions relate to how Congress operates. I am outlining some of my thoughts about committee structure and assignments, floor procedure, and congressional compliance and management, and how to make changes so that Congress can more effectively carry out the people's business.

THE COMMITTEE STRUCTURE IN CONGRESS

The explosion of the number of committees and subcommittees in the House and the Senate has so fractured jurisdictions among many different committees that it is difficult and often virtually impossible to get things done. One form of legislative gridlock is the jurisdictional battles that persuade Members of the House and Senate to spend time and energy fighting among themselves over jurisdiction rather than fighting for a good legislative outcome on any given issue.

We can see the problem when we look at the number of subcommittees in the House and Senate. The number of full committees hasn't changed very much over the years. It has increased from 15 to 16 in the Senate and from 19 to 22 in the House. But the number of subcommittees in Congress has almost doubled since the 1946 congressional reorganization, from 125 to 218. Fully sixty percent of majority congressmen now chair a subcommittee in the U.S. House, while in the Senate, where we have over 80 subcommittees, nearly every majority Senator chairs a subcommittee. We need to consolidate and reduce the number of subcommittees, reduce the size of the staffs, and stop fracturing the jurisdictions on issues before the Congress.

Senators Inouye and Kassebaum have led the effort to substantially reform the Senate's committee structure. They have proposed only ten broad legislative policy committees, supplemented by four narrower legislative program committees and three administrative ones. While I am not endorsing all of their ideas, I think that broad reform of our committees and subcommittees should be our target.

In that context, I would take a close look at biennial budgeting. And I think it is time

to simplify our three-stage budgeting process. It is wasteful and duplicative to have to vote three times each session on the same issues. And most importantly, the public deserves a budget process that is easier to understand. Part of the public's frustration with Congress is a result of our inability to make our deliberations readily understood.

FLOOR PROCEDURE

Second, **Senate floor procedure needs a major overhaul.** For example, I believe that the Senate's traditional rule of unlimited debate has been increasingly used to prevent the Senate from conducting its business. Minority rights need to be protected, and the minority needs to be heard, but in recent years the filibuster has been used in the Senate as a matter of routine by the minority to prevent votes from occurring on any number of key issues that the Senate should be acting upon. And in recent months it has become very clear again to the American people that gridlock is occurring in the Senate as a result of the filibuster.

I understand that the Senate has a different role than the House in the protection of the rights of the minority party. However, when the minority endlessly bottles up legislation using the filibuster, the minority thwarts the will of the majority and the legislative and democratic processes.

For most of the twentieth century there were fewer than five cloture votes (to end a filibuster) in the Senate **per year**, and in some years there were none at all. In the last Congress alone there were 48 cloture motions to try to end a filibuster.

I support the Majority Leader's proposal to limit the number of times that cloture could be required on a single bill from six to two. In other cases a simple majority would suffice. I also support his efforts and those of other Senators to modify rules governing post-

cloture procedures. But I think we need to go further than that.

We should begin to make cloture easier to achieve. I support the idea of reducing the supermajority needed to end debate by one for each day of debate completed, although never to less than a simple majority. This way the minority could make itself heard without perpetually frustrating the will of the majority. And I would note that the Minority Leader has in years past suggested this very principle, although the daily reduction (from the two-thirds then required) would have stopped at three-fifths. Norman Ornstein of the American Enterprise Institute has proposed a similar sliding scale, with a five-vote reduction for the second cloture vote on a bill and a simple majority for the third one.

CONGRESSIONAL COMPLIANCE AND MANAGEMENT REFORM

We need to make certain that Congress applies to itself the same regulations that we apply to business people and other Americans across this country. I know that there are constitutional and legal difficulties. But with different laws applying to uncertain degrees to the different Houses of Congress, the current situation is confusing and ineffective.

The public is right to wonder why the Congress does not impose upon itself the same regulatory burdens that it imposes on the rest of the country. The U.S. Senate has taken a step in the right direction by establishing the bipartisan Task Force on Senate Coverage, which is to issue its report on this problem in the fall. But I think we need to achieve a uniform policy for both the House and the Senate. The policy should be that when the Congress proposes a mandatory policy that will affect the rest of the country, then it should submit itself and its Members to the same restraint.

CONCLUSION

Let's face it. Reforming Congress is not going to solve America's problems.

Ultimately, the stalemates in Congress have more to do with the diversity of this country than with the organization of Congress itself. But Congress isn't helping. It's amplifying the dissonance instead of resolving it.

So congressional reform can move us forward. To make the Congress work more effectively, we need to simplify our byzantine structures, prevent endless delays, minimize procedural snarls, and limit fractious turf battles. If we do this, the people's branch will be better able to carry out the people's will.

I'd like to thank you very much for the opportunity to submit this testimony.

LARRY E CRAIG

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Statement on Budget Process Reforms

by Senator Larry E. Craig

Before the Joint Committee
on the Organization of Congress

June 17, 1993

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OUTLINE of Statement on Budget Process Reforms
by Senator Larry E. Craig
Before the Joint Committee on the Organization of Congress
June 17, 1993

Introduction

Balanced Budget Amendment to the U.S. Constitution

Line Item Veto or Modified Line Item Veto / Expedited Rescission

Baseline Reform

Current-Dollar Baseline
 Current-Law Baseline
 Current-Services Baseline

Spending Caps

Unified Spending Cap and Freeze

Deficit Targets/Spending Caps Enforced by Restored Sequester

Possible Alternative Mechanism to Enforce Deficit Targets/Spending Caps:
 Suspend Government's Authority to Borrow

Truth in Taxing and Spending

Uniform, Cross-Referenced Presentation of Budget Information

Dynamic Economic Models

Sunset and Program Review Requirements

Bureaucracy Closure Commission

Reconciliation Credit for "Hybrid" Policies

In the House, Change Germaneness Rules

Biennial Budgeting

Attachments regarding the Balanced Budget Amendment

Statement on Budget Process Reforms

by Senator Larry E. Craig

Before the Joint Committee on the Organization of Congress

June 17, 1993

I thank the Chairman and the Committee for the opportunity to appear before you today, to address budget reform issues.

Because of the size and scope of the federal government, and because of increasingly alarming amounts of federal deficit spending, how we write the federal budget and with which goals in mind are the most important decisions we face. As you know, the federal government now regularly consumes almost a quarter of gross domestic product and deficits are running at about 5 percent of GDP.

You may remember from last year's debate on the Balanced Budget Amendment to the Constitution the release of the General Accounting Office report on the economic impact of the deficit. GAO said that, under current trends, the American standard of living virtually would stagnate through the year 2020. However, if the budget was balanced by the year 2000, our children would enjoy about a one-third higher standard of living in 2020.

Those are sobering projections. They point out what kind of drain on the economy is caused by a federal debt that is \$4.1 trillion and growing. And they demonstrate the critical need for budget reform geared to reduce the deficit, control the growth of government, and stop the diversion of resources from savings and investment into carrying the federal debt.

While, in theory, efficiency and effectiveness are maximized when programs are evaluated from the bottom up, in practice, the very impetus to do so, and to prioritize among programs, can only come from top-down budget constraints.

Balanced Budget Amendment to the U.S. Constitution

The single most important reform Congress could pass, and the single most potent means for setting our house in order, would be the Balanced Budget Amendment to the U.S. Constitution. As my Colleagues know, this is the goal I've devoted the largest part of my energies to over my 12 years in Congress.

Clearly, the problem of the deficit has come from -- and in turn perpetuates -- unrestrained growth in spending. When there is no restraint upon the ability to borrow, there is every political incentive from special interests to add and add to spending on an incremental basis.

When the ability to spend is effectively unlimited, there remains no reason to prioritize and little impetus to efficiency. Slightly good ideas for programs don't have to compete against outstanding or essential ones when all can be funded at once.

The proof is in the pocketbook: Federal tax revenues as a percentage of the gross domestic product today are coming in at (or perhaps only slightly higher than) levels typical of the post-World War II period. Yet federal spending has grown relentlessly, and has reached record high levels in recent years.

In a society founded on participative democracy, the best ceiling on spending is the amount that the people are willing to pay in taxes. An adequate deterrent to deficit spending will inevitably produce at least small surpluses; those, combined with growth in the size of the economy, will work down the national debt.

Our long-term norm, then, should be federal budgets annually in balance or surplus.

Our experience with the 1990 Budget Enforcement Act has shown that statutory spending caps, standing alone, do not work well in moving us toward that goal. Most of the current budget process has been in place since the mid-1970s, during which period spending and deficit growth have gone from linear to geometric.

The 1985 Gramm-Rudman-Hollings (G-R-H) law would have worked, a fact that actually motivated Congress and Administrations to postpone its

deficit-reduction targets in 1987 and gut them in the 1990 Act.

Previous statutory attempts in 1978, 1979, and 1981 proved totally ineffective. Obviously, whatever statutory constraint Congress creates, it can loosen or remove.

Only a supra-statutory restraint can motivate policymakers to make the necessary hard decisions. The final, bipartisan-bicameral, consensus version that was narrowly defeated in the House and procedurally blocked in the Senate last year, would be tough, enforceable, and flexible.

This version was drafted in language suitable to the Constitution and fine-tuned to reflect the input, and to respond to all the criticisms, that more than a decade of debate and discussion have produced.

The bipartisan-bicameral, consensus version of the Balanced Budget Amendment has been reintroduced in the 103rd Congress as S.J.Res. 41 and H.J.Res. 103. The only change, simply to reflect the passage of time, has been to set the effective date at 1999.

With your permission, I'd like to enter into the record with my statement some materials my office prepared last year explaining, and answering common questions about, this consensus amendment.

The best-crafted deficit-reduction strategy or statutory procedural reform cannot be enforced against a government that has the motivation and the ability -- with ease -- to dismantle it.

Line Item Veto or
Modified Line Item Veto / Expedited Rescission

The second essential and needed reform and, with the Balanced Budget Amendment, the other most significant reform that has never been given a chance to work. is the Line Item Veto.

The American people are demanding greater discipline and accountability in the spending of taxpayer money. Many items that previously were hidden in large appropriation bills should be exposed to the full sunlight of public scrutiny -- and those that can not stand up on their own merit would wither under that scrutiny.

I agree with our many colleagues who would prefer the stronger and broader proposed versions of a line-item veto, such as a Constitutional amendment or S. 9, introduced by Senators McCain and Coats.

However, if such a version can not be enacted, then at least we should enact a Modified Line Item Veto, or Expedited Rescission, process.

With Senators Cohen and Kempthorne, I have introduced one version of Modified Line Item Veto / Expedited Rescission legislation here in the Senate, S. 690. A similar bill, HR 1578, already has passed the House this year, by a vary bipartisan vote of 257-158.

A strong, effective Act could be produced by merging the best features of HR 1578 and S. 690, and adding a few technical changes that the House debate indicated would be useful.

I believe that the principal virtue of any version, that of isolating and forcing reconsideration of individually indefensible spending items, would be embodied in this approach. Moreover, only if we take the opportunity to enact some such process into law, will we have the opportunity to hold both the President's and the Congress' feet to the fire for whether and how it is exercised.

The basic outline of the process is as follows: After signing an appropriations bill into law, the President would have three days to propose to rescind funding for any program or project. On an expedited schedule, Congress would be required to vote on approving those rescissions, with no opportunity to use procedural technicalities or unrelated amendments to

avoid an honest vote.

Technical improvements should include the preventing either chamber from circumventing the process by internally amending or suspending its own rules, which, under the Constitution, would be possible depending on the construction of the bill. Also, to make sure the expedited rescission approach more nearly does reflect an item veto process, the first chamber considering the President's proposed rescissions should not be able to terminate the process. Also, as in S. 690, it should be possible to order a division in the vote to allow consideration of individual items in the President's package, when a significant number of Members feel it is important to do so.

Some opponents worry about upsetting the Constitutional balance of power between the President and Congress. But the framers of the Constitution never contemplated thousand-page bills, hiding thousands of narrow-interest projects, passed without due deliberation. Our bill would restore the balance intended by the nation's founders.

A line item veto would move federal decision-making into the sunshine, by ending Congress' ability to ignore Presidential rescission messages. It would require greater accountability and end a cycle of blaming the other guy when "pork" items are unearthed. That means a lot of wasteful spending finally would get unspent.

The balanced approach in this proposal has evolved over several years, with bipartisan authorship and support. This is the concept endorsed by both the previous and current Presidents and by Members of both parties. It meets the Supreme Court's "Chadha test" of bicameralism and presentment to the President. And it builds on current law: It does not take away from Congress' power to come up with its own rescission proposals or the President's current-law right to propose additional rescissions, year-round or beyond the criteria of this bill.

Baseline Reform

Some of the most frustrating encounters both the general public and Members of Congress have with the federal budget process is just trying to make sense of the numbers.

No matter how much any of us may agree or disagree with an item or a policy in the budget, probably nothing erodes Congressional credibility more than the sense people have that they are never quite being told the truth, because the numbers never seem to add up. This is why Ross Perot receives a resounding reaction when he asks on television or at rallies, "Shouldn't the government start using good numbers?"

A single dollar amount of spending on a single item might be characterized as a cut, a freeze, or an increase.

The nominal dollar amount spent on an activity may be increasing significantly from one year to the next, at the same time its spending is being "frozen" at the rate of inflation and being "cut" below the amount needed to maintain current services. Or spending for another item may be increasing faster than inflation at the same time it is "frozen" at the baseline and is "shrinking" as a share of total spending or GDP. Or outlays may be increasing while Budget Authority is subject to a "hard freeze".

No family, no business, and few if any other units of government in America even write, much less try to explain, budgets in this way.

Family and business spending isn't budgeted at a "current services" baseline incorporating several different rates of inflation plus "demographics." It's generally budgeted based on last year's spending and this year's probable income. And this year's probable income isn't based on GDP growth plus inflation.

Small wonder, then, that Americans are confused, at best, and believe they are being lied to, at worst, when they are told that an increase in spending isn't an increase, in spending, but it's a spending "cut" because it's increasing rate.

They don't understand why the deficit keeps on increasing after Congress passes bill after bill that allows Members to take credit for reducing the deficit by tens and hundreds of billions of dollars.

I don't blame them, Mr. Chairman. Words should mean what they say.

Current-Dollar Baseline

It's in this spirit that I ask this committee to recommend adoption of a Current-Dollar Baseline in all relevant, official budget publications, as the official benchmark against which all policy changes and currently-projected trends are measured, and as the basis for procedural enforcement of budget discipline.

I would consider the list of relevant, principal, official documents to include, but not necessarily be limited to:

The President's Budget;

Departmental summaries of President's Budget;

CBO's January and August editions of its Economic and Budget Outlook;

OMB's Mid-Session Review;

Any Deficit Target / Spending Cap / Sequester reports required to aid enforcement of budget discipline;

Congressional Committee Reports accompanying Budget Resolutions, Reconciliation legislation, and Appropriations Bills, and the conference reports for each.

In official usage, a policy change should not be called a "cut" unless the number of dollars being discussed is less than the number of dollars spent for the same activity the previous year.

A Current-Dollar Baseline should be used even if entitlement programs continue to be mandated at levels accounting for inflation and caseload.

Simply put, the government, as a whole, should not spend one dollar more next year than it spends this year without a conscious exercise of

decision-making by those of us who have asked to be elected so that we could make decisions.

The American people do not believe that bureaucracy and government programs have an entitlement to cost-of-living-adjustments.

If we built our budget process around the plain meaning of words -- and a Current-Dollar Baseline would do more than anything else to accomplish that -- not only would we produce superior policy, but the American people would start trusting us more.

Current-Law Baseline

Even when the official baseline is put on a current-dollar basis, I certainly acknowledge the utility of providing alternate measures of expected or possible government activity. The key is, these should be alternative presentations, for informational purposes.

Therefore, I would ask that you recommend that all the relevant, principal, official budget documents I mentioned previously also include a presentation of a Current-Law Baseline.

This baseline simply would show the budget impact of allowing current law to continue in effect. When compared to the Current-Dollar Baseline, this presentation would show how current law would increase nominal dollar spending on some activities, what laws would have to be changed to effect a freeze of outlays, and what laws would have to be extended or amended to continue various programs. When compared to a Current-Services Baseline, the Current-Law presentation would spotlight which laws would have to be changed to maintain provision of the same level of benefits, services, purchasing power, etc.

There is a valuable precedent: Back in calendar 1980, some of the Members of this Committee will recall, the Senate briefly did adopt the Current-Law Baseline as the official benchmark for the budget for fiscal year 1981. Senators Domenici, Hollings, and Johnston, and then-Senators Bellman, Chiles, and Muskie all came to agreement on that process.

Current-Services Baseline

The Current-Services Baseline, as it's been used as the "official" baseline, has been both subject to abuse and source of terrific confusion.

I have no difficulty appearing without a partisan hat today to say that, in 1981, when my party held the White House, OMB made a grave mistake in forcing us back from a Current-Law to a Current-Services baseline. That year, the current-services approach emphasized -- I would say, exaggerated -- the spending cuts achieved by President Reagan, who had been elected, after all, on a platform of cutting the size of government.

In most years since then, the Current-Services Baseline has lent itself to the mischievous use of those who, with great effectiveness, protected sacred federal cows by declaring countless spending increases to be spending cuts.

A Current-Services Baseline provides reasonable and valuable information. However, it should be used only of informational purposes, as an alternative presentation, providing comparisons with the Current-Dollar and Current-Law baselines.

Spending Caps

A discussion of baselines leads naturally to a discussion of spending caps in future budgets, since caps both have been compared to baselines and have been used to construct baselines.

Currently, Congress acknowledges spending caps only for discretionary spending. While there are significant legal and policy differences between mandatory and discretionary spending, no spending program, except for interest payments on the federal debt, are truly uncontrollable over the long run. Therefore, it just doesn't make sense to clamp the fiscal vice on one category of spending just because we legislate that spending every year, while allowing to run wild another, much larger, category of spending concerning which we can legislate whenever we want.

Therefore, I propose to this Committee the establishment of unified spending caps. Spending is spending. Every year, we consider reconciliation bills that deal in tens and hundreds of billions of dollars in changes in entitlement and mandatory spending. It would be simpler, and make more common sense, to formally put appropriations and entitlements in the same boat.

Neither deficit targets nor spending caps should be allowed to vary based on "unforeseen" economic or technical changes, as allowed in the Budget Enforcement Act of 1990. That is simply an invitation to creating "rosy scenario" projections.

A unified spending cap also would call much-needed attention to the fact that the President is responsible for proposing, and Congress is responsible for enacting, all spending.

My constituents in Idaho roll their eyes when they hear that Congress can't reduce the deficit because Program A is small and getting smaller, while Program B, which is huge, is "mandatory" or "uncontrollable". Not one of us was elected for the purpose of telling our constituents how much of the budget is "out of our control".

Unified, Spending Cap and Freeze

Increasingly, in recent years, as spending has escalated and deficits have ballooned, budget process reform has included attempts at long-term planning of budget outcomes. Since the single biggest peril America now faces -- budgetary or otherwise -- is a mounting, massive indebtedness, combining the two is appropriate. The 1990 BEA included both budget process and budget targets.

In considering budget reforms, I urge this Committee to recommend that a unified spending cap be established at a flat \$1.5 trillion for each of the next five years. Under that cap, some programs should receive increases, some should be reformed, some should continue at frozen outlay levels, and some should be terminated.

Capping total federal outlays at about \$1.5 trillion for five years would produce a balanced budget by FY 1998. Our constituents understand what this would mean: Some programs would have to be cut, but achieving a balanced budget over a reasonable time is still manageable, if constraining.

Just yesterday, our Colleague from Florida, Connie Mack, and I joined with the National Tax Limitation Committee to unveil just such a proposal and show how it could be implemented.

In fact, this is probably the kind of spending restraint most Americans think Congress and the President are talking about, amid all the confusion created by conflicting reports about "reducing the rate of increases compared with baselines and involving entitlement restraint and a discretionary freeze". When they realize that, under the President's budget, we are already projecting a deficit still above \$200 BILLION in 1998, and back up to \$300 BILLION by the turn of the century, and hitting \$400 BILLION by the year 2003. they are going to believe, once more, that Washington, DC lives on double talk and cooked books.

In the alternative, if more flexibility was desired, it also would be possible to balance the budget by the year 2001 and still accommodate 2% a year nominal growth in total outlays.

Deficit Targets/Spending Caps Enforced by Restored Sequester

Along with creating discretionary spending caps, the 1990 Budget Enforcement Act retained, although really in form only, deficit targets and a sequester mechanism based on those in the previous, 1985 and 1987 versions of the Gramm-Rudman-Hollings Act.

These two devices should be restored to their former effectiveness. Today, deficit targets should not be adjusted for economic conditions or technical reestimates and use of the sequester should not be left up to the President's discretion.

In addition, to provide surer discipline, an across-the-board sequester should be triggered in a given year by a breach of either the deficit target or unified spending cap.

One of the things Congress and Presidents progressively lost sight of after the original 1985 Gramm-Rudman-Hollings was that the sequester was supposed to motivate decision-making, like a budgetary Sword of Damocles, not substitute for it. Eventually, so many exemptions were carved out that a relatively small part of the budget was threatened with devastating cuts. So, Congress would enact the worst of both worlds, endlessly postponing the deficit targets and putting off real spending restraint.

To be both sufficiently threatening and taken seriously, the sequester should be applied to as broad an array of programs as possible.

Obviously, interest is truly uncontrollable and the debt must be serviced. Social Security differs from other programs in that taxpayers contribute under the belief that their taxes are held "in trust" and the perception of a "special compact" has been widely acknowledged. And the full faith and credit of the United States would fall into doubt and discredit if a sequester resulted in a partial renouncing of prior contractual obligations. Beyond these exceptional cases, however, a sequester -- and any other, related mechanisms developed to provide enforcement of budget discipline -- ideally should apply across-the-board and to all the rest of federal spending.

**Possible Alternative Mechanism to Enforce Deficit
Targets/Spending Caps: Suspend Authority to Borrow**

Some of our Colleagues in both bodies have just barely begun discussing a significant, new means of enforcing budget discipline in place of a sequester, a different Sword of Damocles: Suspending the government's authority to borrow until corrective action is taken whenever a breach of spending caps or deficit targets is imminent.

In some respects, this actually would be preferable to a sequester.

Those who are concerned, contrary to our actual experiences, that sequesters would be allowed to occur routinely, have opposed or compromised them armed with the data of just how much each program would be cut by a sequester. Replacing a sequester with a threatened suspension of borrowing authority would end needless and distracting debate on the program-by-program consequences of a sequester. The same desired end, a universal "budget hammer" motivating Congress and the President to agree to real deficit reduction, would still be attained.

In any case, whether an enhanced sequester is revived or another enforcement mechanism established, a 60% super-majority vote in both bodies should be required to breach either the deficit target or spending cap.

In addition, because historical data show that our deficits have resulted from spending increasing at a significantly greater rate than economic growth, while revenues have been stable as a proportion of GDP for almost all of the post-World War II era, a 60% super-majority also should be required to raise taxes. Deficit reduction enforcement should focus on where the problem is: Spending.

Finally, the idea of using the government's authority to borrow as a tool to modify budgetary behavior is not new. Since 1982, it has appeared frequently as a feature in the leading versions of the Balanced Budget Amendment to the Constitution. In that context, we have proposed that a 60% vote be required to increase the level of the public debt. The daunting challenge of achieving a 60% supermajority plus the dire, threatened consequences of a default, would provide an effective deterrent to "rosy scenario" budget projections.

Truth in Taxing and Spending

We are still in the middle of a damaging cycle of debate over, again, who has the good numbers.

The President and my Colleagues on the other side of the aisle insist that the President's budget package comprises a \$1/\$1 match between tax increases and spending restraint. On my side, bolstered by CBO numbers, we have been at least as certain that, at best, that ration was \$3/\$1 in favor of taxes and, in the House passed Reconciliation bill, \$6.35/\$1.

This debate, and the consequent lack of credibility it inspires with the people, results from a set of budget scorekeeping rules that could not be more Byzantine and impenetrable if we had intentionally tried to make them so.

When one of our constituents pays federal income tax on Social Security benefits, filing an IRS form 1040, I don't have to tell you how that constituent would characterize the transaction.

However, under current rules, increasing income taxes on Social Security income technically can be categorized as a spending cut.

Similarly, a user fee or royalty charge or other offsetting receipt results in an increase in the size and scope of activities of the federal programs to which they relate. But to some in the government, those are spending cuts.

To the typical American, a spending cut is something that reduces the size of government, rather than allows it to grow.

Therefore, all outlays and all receipts should be computed and displayed separately, in gross amounts, in all the relevant, principal, official budget documents I mentioned previously.

"Negative outlays" should be called what they are -- fees, royalties, taxes, receipts, etc. It is reasonable, in budget presentations, to note the programs to which they are related, but they should be included among Gross Receipts, not obscured in the process of computing "net" outlays.

Here, too, if we would just reform the budget process by using words consistently with their plain meanings, we not only would improve the

operations of the process: we not only would be able to communicate much more clearly and honestly with each other and our constituents; but we also would cultivate much more credibility with the American people.

Uniform, Cross-Referenced Presentation of Budget Information

In various documents, the presentation of budget data currently varies by:

- Functional category;
- BEA category;
- Agency;
- Authorizing committee jurisdiction; and
- Appropriations subcommittee jurisdiction.

Like the Current-Services Baseline and tax-vs.-spending-cut technical terminology, such a variety of categorizations, all standing alone, confuse some of the most sophisticated students of Congress -- including many of its own Members.

All relevant, principal, official budget documents should cross-reference its budget data by these categories, at whatever level of detail is required in each document's normal presentation of its budget data. All spending information presented should include both Budget Authority (or the appropriate analogous designation, such as "budget resources" or "obligational authority") and Outlays.

Dynamic Economic Models

Harry Truman once said that he was looking for a one-armed economist. Why? Because all the economists he ever talked to would make their point, and then say, "But on the other hand...."

Strongly-held and divergent views characterize the debate among economists about the efficacy of using dynamic versus static models in predicting the consequences of budget decisions.

I understand the position of those who are reluctant to use dynamic models because of their sometimes speculative nature and the difficulty in accounting for all the second- and third- and subsequent-order effects of a policy.

But, on the other hand, it is incontrovertible that economic behavior and subsequent-order effects of a given change in budget policy are perfectly predictable. In the cases of some specific policies, there is a wealth of experience to guide us.

The most obvious and most recent example of the dynamic consequences of budget decisions is how the luxury tax in the 1990 reconciliation and tax bill has devastated the domestic boat-building industry. That tax increase didn't increase revenues, it was a powerful disincentive to buy boats and it modified behavior.

Similarly, from the policies of John F. Kennedy to those of Ronald Reagan, we have ample experience on which to base predictions that treating capital gains differently from other income actually motivates investment and increases revenues to the Treasury. In contrast, the 1986 tax bill devastated the real estate industry and, consequently, was a principal cause of the savings and loan catastrophe we recently have come through.

Tax and spending policies modify behavior. If we didn't believe that, the Internal Revenue Code would be about 4 pages long.

I realize it may be difficult to develop a general rule as to when dynamic models should be used in budget projections and when they shouldn't. However, the question should be studied and an attempt should be made to develop a system for taking into account the dynamic economic and second-order budget consequences of our decision-making.

Certainly, at the very least, when a body of research reasonably indicates that dynamic consequences are quantifiable and predictable, these should be included as an alternative presentation in CBO and OMB documents. By adding, in an orderly way, to the information available to us, we will only enhance our ability to make informed decisions.

Sunset and Program Review Requirements

A common device used by states to promote effective legislative oversight and lean budgeting is the sunset statute. Various proposals have been introduced in Congress over the years, on both sides of the aisle, but none have ever been considered very thoroughly.

Today, a hodge-podge of reauthorization deadlines apply to different programs. Some are permanent. Some are not even authorized but live on and are funded annually, such the Legal Services Corporation, which was last reauthorized in the late 1970s. Neither approach promotes the kind of serious oversight that is expected from Congress.

One of the more common proposal is to put most federal programs on a staggered, 10-year schedule of oversight, sunseting, and reauthorizing. The few exceptions should include, obviously, debt service and accounts like Social Security into which future retirees make contributions in anticipation of repayment.

If, by the end of its 10-year cycle, a program has not been the subject of a full set of hearings and an enacted reauthorizing law, no further appropriations should be permitted for that program. This restriction should apply without waiver.

For those of our Colleagues who have expressed concern about the tendency of the budget cycle to force substantive program decisions, a sunset/review cycle offers an additional benefit: It would help balance budget-driven decisions with more vigorous legislative oversight. The quality and effectiveness of that oversight also would be enhanced by the predictability and regularity of a coherent, consistent cycle.

Bureaucracy Closure Commission

The once-experimental Base Closing Commission has shown itself to be effective in its mission and its operations now are fairly widely familiar.

A similar approach should be taken to identify units in the federal bureaucracy which may be little-noticed at budget time, but which are unnecessary and costly.

Such a commission is also a component in the National Tax Limitation Committee budget freeze proposal that Senator Mack and I helped announce yesterday. The commission, on an annual basis, would recommend office consolidations or closures, program reductions or eliminations, and related realignments, subject to single, up-or-down vote in Congress. The NTLC proposal specifically ties the activities of such a commission to meeting annual deficit reduction goals.

As is the case with the current Base Closing Commission, the panel focusing on the overall bureaucracy would not usurp Congress' decision-making prerogatives or responsibilities, but, rather, would streamline and depoliticize the process. The result would be an ongoing restructuring that increases efficiency, cost-effectiveness, and manageability.

Reconciliation Credit for "Hybrid" Policies

The reconciliation instruction process needs to be fine-tuned to recognize "hybrid" policy changes that sometimes are handled with great difficulty, and often simply abandoned, because they are neither examples of mandatory spending or solely an appropriations decision.

Authorizing committees should get reconciliation credit for changes in permanent authorizing laws that would result in savings ultimately realized through appropriations process. Examples include:

- Food Stamp eligibility rules;
- Changes in civil service attrition rates or COLAs;
- Departmental reorganization; and
- Davis-Bacon reform.

In some of these and similar cases, the Appropriations Committee can not effect (and sometimes reprogram) savings without the cooperation of the authorizing committee.

At other times, the authorizing committee's changes might be ignored in the appropriations process or an authorizing change made for the purpose of deficit reduction might result only in freeing up those dollars for diversion to other spending.

Also, it seems only fair that an authorizing committee should be able to choose freely among the mandatory and discretionary programs under its jurisdiction when deciding how to achieve reconciliation savings.

The "hybrid problem" could be handled in a number of ways.

When an authorizing committee chooses to achieve savings in a discretionary program by changing an authorizing law, as an alternative to changing a mandatory program, then it should get full credit for complying with its reconciliation instructions and the Section 302 allocation to the Appropriations Committee should be reduced by an equivalent amount.

Another possibility would be to allow this kind of flexibility to authorizing committees that have jurisdiction over only small amounts of mandatory spending.

The creation of a unified spending cap, as I suggested earlier would significantly simplify this process.

Finally, of course, if a result of this Committee's work is the merger of appropriating and authorizing committees, as has been suggested by some of those appearing before you, the hybrid problem would become moot.

In the House, Change Germaneness Rules

Having spent some time, now, in both bodies, and with my tenure in the House still fresh in my memory, I wanted to express my strong feeling that germaneness rules often result in legitimate debate over perfectly relevant alternatives to be choked off.

I hope this Committee would recommend that the House allow amendments or substitutes that are not strictly germane to underlying legislation, but are clearly relevant to the underlying policy decisions being made. I recognize that this proposal is not usually thought of as a budget process reform. And it would, in fact, be generalizable to a wide array of legislation. However, this concern frequently does involve budget and tax legislation, and I believe this is a reasonable context in which to raise issue.

One of the great strengths of the creative American spirit is to look at a single problem from many different perspectives. Frequently, many solutions arise for a single challenge, the first Congressional committee on the scene does not always have the jurisdiction to report the best solution. Examples in which this has been the case have included:

- HHS child care grants vs. earmarked Title XX block grants;
- Child care mandates and subsidies vs. tax credits;
- Increasing the minimum wage vs. increasing the EITC;
- Family leave mandate vs. tax credit;
- Shifting responsibility for a proposed program from one department to another, possibly more appropriate one.

I respect and appreciate the Senate's rules and traditions of allowing a wider-ranging debate and amendment process along these lines, and I am only wishing that my House Colleagues come to enjoy this same good fortune. More importantly, allowing relevant, cross-jurisdictional amendments would spur creativity, improve debate, promote healthy competition in the marketplace of ideas, and result in superior public policy.

Biennial Budgeting

A number of witnesses have come before this Committee to urge adoption of biennial budgeting. I believe this reform would improve the timeliness and smooth operation of both the budgeting and the oversight process.

Under most proposals, Congress would spend one year preparing a budget and implementing it through two-year reconciliation and appropriations acts. That would free us up during the second year to concentrate more on oversight of federal programs and consider necessary authorizations or reauthorizations.

The increased focus on the authorizing and oversight process that would be promoted by biennial budgeting also would be compatible with the goals and the operation of a 10-year sunset cycle, which I've already mentioned.

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CQ's WASHINGTON ALERT 02/23/93

103D CONGRESS
1ST SESSION**S. J. RES. 41**

Proposing an amendment to the Constitution of the United States to require a balanced budget.

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IN THE SENATE OF THE UNITED STATES

February 4 (legislative day, JANUARY 5), 1993

Mr. SIMON (for himself, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. HEFLIN, Mr. CRAIG, Mr. KOHL, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, Mr. BROWN, Mr. DASCHLE, Mr. COHEN, Mr. BRYAN, Mr. PRESSLER, Mr. SHELBY, Mr. BENNETT, Mr. GRAHAM, Mr. SMITH, Mr. KRUEGER, Mr. KEMPTHORNE, Mr. MATHEWS, Mr. NICKLES, Mr. CAMPBELL, and Mr. LUGAR) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

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JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States to require a balanced budget.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE --

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 1999 or with the second fiscal year beginning after its ratification, whichever is later."

SECTION BY SECTION ANALYSIS
of the Bipartisan, Bicameral Consensus
Balanced Budget Amendment to the Constitution

Prepared by the offices of
 Senator Larry E. Craig and Representative Charles W. Stenholm
 June 1992

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

This section sets forth the general rule of this Article, and the central principle to be observed and enforced, that the Government of the United States shall not live beyond the means provided for it by the true sovereign, the people.

Therefore, this section establishes, as a norm of federal fiscal policy and process, that the government's spending should not exceed its income. While popularly -- indeed, universally -- referred to as requiring a "balanced budget", its mandate is both simpler and more comprehensive, requiring a balance (or surplus) of cash inflows relative to cash outflows.

Any departure from the general rule in this section and its guiding principles should be an extraordinary event, based on a compelling need. As is commonly the case with constitutionally established parameters for the legislative process, no attempt is made to enumerate all the circumstances that might justify deficit spending; if a three-fifths supermajority of each House of Congress believes an emergency, crisis, or urgency exists (and if the President concurs, it does. This formulation makes the option of deficit spending both difficult to exercise yet available when a fairly strong national consensus exists.

Detailed analysis:

"Total outlays" and "total receipts" are defined below in Section 7.

". . . fiscal year . . ." is intended as a term defined in statute and having no other, specific, constitutional standing. It is a commonly understood term in both private and public usage. While the definition of a fiscal year could be changed from time to time, the concept is sufficiently well understood that a blatant attempt to contravene the intent of the amendment would

not be acceptable.

For example, creation of a "transition fiscal year" of 18 months to facilitate reforms in the budget process clearly would be consistent with the amendment. On the other hand, legislation purporting to implement the amendment that promised to balance the budget for the "fiscal year 1998-2008" (and, presumably, with little or nothing in the way of procedural discipline in the early portion of that "year"), clearly would be unconstitutional. Certainly, a simple "rule of reason" would be applied to any statutory definition of a "fiscal year".

" . . . shall not . . . " is a term readily obvious in its intent, spirit, and application. It is mandatory language simply meaning you may not. Saying that "Total outlays . . . shall not exceed total receipts" states both the goal to be pursued and the yardstick by which successful compliance with this amendment is measured. It prohibits fiscal behavior intended or reasonably likely to produce a deficit within a fiscal year.

" . . . three-fifths of the whole number of each House of Congress . . . " indicates the minimum proportion (60%) of the total membership of each House needed to approve expenditures producing a deficit. Currently, this would mean 60 of the 100 Senators and 261 of the 435 Representatives.

The term "whole number" is derived from, and intended to be consistent with, the use of the phrase in the 12th Amendment to the Constitution, "two-thirds of the whole number of Senators" (which is set as the quorum necessary for the purpose of electing the Vice President in case no candidate receives an Electoral College majority).

" . . . shall provide by law . . . " both states a simple consistency with other provisions of the Constitution and clarifies a difference between the deficit spending provided for under this amendment and a deficit planned for in a Congressional Budget Resolution.

Article I, Section 7, Clause 3 of the Constitution states: "Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States" for signature or a veto. Clearly, a vote by both Houses that results in deficit spending would be such a vote.

However, an additional reason for adding this clarifying language is that such a vote might easily be confused with the deficit that may be estimated in a budget resolution, which currently is not presented to the President. While budget resolutions are Concurrent Resolutions generally passed by both Houses, concurrence is not necessary, since budget resolutions actually fall under the "Rules of its Proceedings" that "(e)ach House may determine" under Article I, Section 5, Clause 2. This is because budget resolutions merely set target amounts for

subsequent budget decisions made within each House. (The ultimate decisions requiring concurrence, appropriations, other direct spending bills, or revenue bills, are presented to the President.) In fact, the House often has proceeded to act pursuant to a House-passed budget resolution in prior to and in lieu of House-Senate agreement on a single resolution.

Obviously, the 3/5 vote on permitting a deficit under this amendment is not a determination of an internal rule in either House, but has direct and immediate consequences external to the rules of either House. Therefore, the words "by law" state what normally would be obvious, but which might be confusing here, due to current budget resolution procedures.

" . . . a specific excess of outlays over receipts . . . " means that the maximum amount of deficit spending to be allowed must be clearly identified. Thus, enforcement of the amendment through the political process will be facilitated by improving elected officials' accountability to the public. The specific excess which is provided for by law would not apply to outlays in more than one fiscal year and may, in fact, apply to an excess that occurs over a shorter period, such as the remainder of a fiscal year when the law is enacted mid-year.

Ensuring such accountability is a cornerstone of the Balanced Budget Amendment, and restores the public's general -- and diffuse -- interest in fiscal responsibility to an equal competitive footing with the special interests who demand programmatic spending and tax preferences. Today, federal officials can reap the rewards of satisfying the incremental demands of special interests without ever having an individual decision identified as a decision that results in a deficit. This informational imbalance is corrected by the mandate in Section 1 that deficit spending can not occur without a specific identification of the amount.

Changes from H.J.Res. 290/S.J.Res. 298, as introduced:

As originally introduced, Section 1 of H.J.Res. 290 read:

"Prior to each fiscal year, the Congress and the President shall agree on an estimate of total receipts for that fiscal year by enactment of a law devoted solely to that subject. Total outlays for that year shall not exceed the level of estimated receipts set forth in such law, unless three-fifths of the whole number of each House of Congress shall provide, by a rollcall vote, for a specific excess of outlays over estimated receipts."

The new Section 1 in the substitute takes cognizance of numerous comments offered, regarding the original language, in 1987 and 1990 hearings in the House Committee on the Judiciary, 1992 hearings in the House Committee on the Budget, during House

floor debate in 1990, and otherwise. The authors have attempted to be responsive to all thoughtful comments and criticisms and to streamline and simplify the language.

"Prior to each fiscal year" was deleted both as hortatory (possibly even surplus) language, and in response to the inevitable question, "What if it isn't done by the beginning of the fiscal year?" Such simple timing questions are best left up to implementation and enforcement legislation.

"Congress and the President shall agree" was removed because "agree" truly was hortatory language. Although it stated a laudable goal, this phrase caused some confusion and raised a question of the legal consequences of a lack of an actual agreement. The words, "by enactment of a law", in the original language referring to establishing a receipts estimate, have clear meaning within the Constitution currently and would control, rather than the hortatory "agree" language. It was intended that Congress still could override a presidential veto of a receipts estimate. In deleting all of the first sentence of the original Section 1, all such possible confusion is also removed. (NOTE: In S.J.Res. 298, as introduced, this phrase was reworded as, ". . . and estimate of total receipts . . . shall be determined by enactment of a law")

". . . an estimate of total receipts . . . by enactment of a law devoted solely to that subject . . ." is deleted from Section 1 to remove the mandating of a specific procedural step that, however beneficial, is not necessary in the Constitution.

The authors in no way intend for the substitute to require a less flexible process in the establishment of a receipts estimate and the use of that single estimate as a benchmark against which to measure total outlays throughout the fiscal year. On the contrary, the substitute provides the same flexibility as would have been permitted under H.J.Res. 290 as introduced, and consistent with the language and purpose of Section 1 of the substitute. The permissible use of estimated receipts is moved to a new Section 6 which requires implementation and enforcement legislation.

Changes from S.J.Res. 18, as reported:

Section 1 of the substitute is substantively the same as Section 1 of S.J.Res. 18 as reported by the Committee on the Judiciary.

Section 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

No section of this Article should be read in isolation, especially Section 1. Section 2 provides the essential mechanism which not only enforces an honest budgeting process in pursuit of the general rule and principle stated in Section 1, but also will operate to make the amendment self-enforcing.

This Section is inspired by the often-quoted desire expressed by Thomas Jefferson, in his November 26, 1798 letter to John Taylor:

"I wish it were possible to obtain a single amendment to our constitution. I would be willing to depend on that alone for the reduction of the administration of our government to the genuine principles of its constitution; I mean an additional article, taking from the government the power of borrowing."

The authors here have drawn from recent experiences of the government and modern economic theory to reach a compromise with then-Vice President and later President Jefferson: Section 2 takes from the government the power of borrowing, unless three-fifths of the total membership of both Houses votes to approve a specific increase in the amount that may be borrowed.

Section 2 provides strong enforcement, indeed, for the provisions of Section 1. When the government runs a deficit, that necessitates additional borrowing to meet its obligations. Failure to authorize that level of borrowing could, in a worst-case scenario, result in a default by the government of the United States. Treasury securities might not be redeemed. Government services could be threatened with a shutdown, subject to the availability of receipts.

Today, such a consequence is occasionally threatened when an impasse within Congress or between Congress and the President jeopardizes passage of essentially ministerial legislation raising the statutory limit on the public debt by a simple majority. Under this amendment, the threat of default would loom when the government runs a deficit, thus providing a powerful incentive for balancing the budget.

The simple threat of default does not fully explain the way Section 2 will operate to enforce the fiscal norm of balancing outlays and receipts. Because a debt-increase bill represents an admission of failure of enormous magnitude, passage is always a difficult matter.

Under current law, Members of Congress not infrequently have rounded up 50% plus one of the Members of one House to threaten to push the government to the brink of insolvency unless a pet amendment is added to this must-pass legislation, despite consistent efforts by the Administration and the Congressional leadership of both parties in both Houses to pass a "clean" debt bill. This "debt bill blackmail", in fact, was the tactic used to enact the original Gramm-Rudman-Hollings law of 1985.

By lowering the "blackmail threshold" associated with passage of the regular debt limit bill from 50% plus one in either body to 40% plus one, Section 2 increases the motivation of the Administration and the Leadership, including the Chairs of the relevant committees, to do whatever is necessary, legislatively and cooperatively, even to the point of balancing the budget, to avoid facing such a difficult debt vote.

It is in no way the intent of the authors and supporters of this amendment that a default or shutdown should happen. However, the threat of such consequences is analogous to the deterrence effect of fines or legal damages in other situations.

Because borrowing, and increases in any limits on cumulative borrowing, must be enacted in law, Section 2 makes the amendment effectively self-enforcing. Such legislation usually involves large enough numbers of dollars to be borrowed that extensions of authority to borrow generally are used up in a year or so. The current statutory limit on the public debt, enacted as a part of the Budget Enforcement Act late in 1990 and allowing borrowing into 1993, is very much an exception in this regard; this lengthy term of borrowing, not quite three years, was made possible only by the status of the Act as an extraordinary, five-year plan. Virtually no elected official can stand the political heat of supporting a huge, multi-year increase in the government's level of indebtedness. This simple political dynamic will ensure that the self-enforcement provided by Section 2 occurs frequently enough to be effective.

Finally, when three-fifths of both Houses have "gutted up" and, under Section 1, voted explicitly for a specific excess of outlays, there is no intent in this amendment to "punish" them by later forcing a second three-fifths vote on the debt limit. Both decisions can be approved by the same, single, three-fifths vote in the same legislation.

Detailed analysis:

"... debt of the United States held by the public ..." is a widely used and understood measurement tool. The Congressional Budget Office's January 1992 Economic and Budget Outlook: Fiscal Years 1993-1997 book, in its Glossary, defines "Publicly held federal debt" simply as: "Debt issued by the federal government and held by nonfederal investors (including the Federal Reserve System)." On page 66 of the same volume, CBO further explains, "Debt held by the public represents the government's appetite for credit and is the most useful measure of federal debt." The current, widely used and accepted meaning of "debt held by the public" is intended to be the controlling definition under this Article.

The "debt held by the public" differs from the gross federal debt in that the latter, according to CBO, page 66, "includes the

securities (about \$1 trillion and climbing) issued to government trust funds." The gross debt is the "close cousin" (per CBO) of the "public debt".

The Congressional Research Service's Manual on the Federal Budget Process, December 24, 1991, in its glossary, defines "Public debt" as: "Amounts borrowed by the Treasury Department or the Federal Financing Bank from the public or from another fund or account. The public debt does not include agency debt (amounts borrowed by other agencies of the Federal Government). The total public debt is subject to a statutory limit."

A requirement of a three-fifths vote on the "public debt" has been used in some previous formulations of the Balanced Budget Amendment. The use, here, of "debt held by the public" is a refinement based on a 1990 recommendation by the Administration and subsequent review by the authors of the implications of using the different measures of debt. "Debt held by the public" has been chosen for two reasons:

First, as pointed out by CBO, common sense suggests that the most appropriate benchmark to use is the federal government's borrowing from all non-federal-government sources.

Second, the purpose of this section is to motivate an avoidance of deficits. When the Social Security or other federal trust funds run surpluses, this does not cause total outlays to exceed total receipts and the government does not increase its borrowing from non-government sources. Therefore, Congress and the President should not be forced to surmount the three-fifths vote hurdle on debt bills if they have not run a deficit and increased net federal borrowing. Section 2 matches the benchmark used in the enforcement process to the policy objectives desired.

"The limit on the debt . . . held by the public . . ." obviously assumes the establishment of a new statutory limit on this measure of federal borrowing. This limit may be established in addition to, or as a replacement for, the current statutory limit on the public debt. Article I, Section 8 of the Constitution simply says, "The Congress shall have Power . . . To borrow Money on the Credit of the United States. . . ." The exact process of carrying out this power is left up to the Congress to provide for by law.

When establishing a new statutory limit on the debt held by the public (which will require a three-fifths vote to increase), Congress may or may not wish to continue to set by statute a limit on the public debt. The fact that a simple majority could continue to be required to pass such a public debt limit would not, in any way, create procedural or legal conflicts. At times when a trust fund surplus necessitates an increase in the public debt, such action would become more ministerial and less difficult than currently is the case. Increases in both limits certainly could be contained in the same bill that is passed by a three-fifths vote.

Changes from H.J.Res. 290/S.J.Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J.Res. 18, as reported:

Language relating to a limitation on debt, such as Section 2 of the substitute, was not included in S.J.Res. 18 as introduced or reported. Language requiring a three-fifths vote to increase the limit on the public debt was added on the Senate floor both to S.J.Res. 225 in the 99th Congress (a predecessor to the current S.J.Res. 18, in 1986) and to S.J.Res. 58 in the 97th Congress (in 1982).

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

In Section 3, the amendment extends to the President's annual budget the same norm of fiscal balance expected of the Congress. The current statutory requirement that the President submit a budget is codified in the Constitution to ensure that the President remains engaged with Congress in the budget process. Of course, this requirement of submission of a single document in no way alters the current constitutional balance of powers or separation of responsibilities. It also is perfectly consistent with the current constitutional provisions that the President "shall . . . recommend to [Congress] Consideration such Measures as he shall judge necessary and expedient" (Article II, Section 3).

Detailed analysis:

"Prior to each fiscal year . . ." was retained in Section 3 because of the long-understood legislative principle that deadlines certain can be set, and in fact are commonly expected to be set, for specific actions by the Executive. Currently, the deadline for submission of the President's budget is set by statute and occurs well in advance of the fiscal year for which it is written. Such statutory provisions are, and will remain, consistent with Section 3.

". . . a proposed budget . . ." means a document similar, in broad terms, to that which is regularly submitted under current law. The amendment in no way restricts the discretion of Congress to enact changes in what is or is not required in such a budget, as long as the document remains useful for the purposes of

planning federal spending activities.

" . . . in which total outlays do not exceed total receipts."

Per se, a "budget" is a document in which all relevant future numbers are planned, recommended, projected, estimated, or assumed. This is true, as a matter of definition, of all documents called "budgets," public or private. Therefore, no qualifiers are added to this language in Section 3, such as "estimated receipts" or "recommended outlays". To include such terms would be redundant at best, and inadvertently confusing or limiting at worst.

Changes from H.J.Res. 290/S.J.Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J.Res. 18, as reported:

This section of the substitute is identical to language in S.J.Res. 18 as reported.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

The purpose of this section is to increase the accountability of Members of Congress when they consider legislation to increase revenue, in light of the amendment's requirement to balance receipts and outlays. The increased pressure the amendment will create for fiscal discipline may increase temptation to shield a certain amount of legislative decision-making from public view. Tax bills have been known to pass, occasionally, by voice vote.

The enhanced "tax accountability" (or, more precisely, accountability with regard to passage of bills to increase federal revenue) provided by the unvarying requirement for a rollcall vote, is supplemented by the requirement that such bill also shall not become law unless passed by a supermajority, in this case a majority of the whole number of each House.

The rollcall vote and supermajority requirements will serve to maintain a level playing field between the public's more general and diffuse interest in restraining the government's appetite for revenues and the more focused pressure that special interest groups can apply for individual spending programs.

Detailed analysis:

"No bill . . . shall become law unless . . ." is drafted in

the negative to conform to the style used in Article I of the Constitution, in phrases such as, "No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census . . ." and "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law"

" . . . revenue . . . " has the same meaning here as in Article I, Section 7, which states, "All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills."

" . . . bill to increase revenue . . . " means legislation making policy changes in the government's exercise of its sovereign power to tax or otherwise compel payments to the government. "Revenues" and "receipts" are largely synonymous, but not always so, especially when being use prospectively. Both are expressed in terms of quantities of dollars flowing into the Treasury. However, "revenue" is more closely connected to the tax rates, tax base, Customs rates, or other policy criteria formulated to produce inflows of receipts. A "receipt" is a more purely and more comprehensive quantitative concept. For example, a bill to step up Internal Revenue Service enforcement of current tax laws and enhance collection of taxes currently going uncollected definitely would result in increased receipts, but would not be "a bill to increase revenue," and therefore, not subject to the requirement of a majority of the whole House for passage. ("Receipts" are further defined under Section 7.)

" . . . majority of the whole number of each House . . . " means, under current law, never less than 218 votes among the 435 Members of the House of Representatives and never less than 51 votes in the Senate, which numbers 100 Members. The "whole number of each House" is defined under Section 1, above.

This language is not intended to preclude the Vice President, in his or her constitutional capacity as President of the Senate, from casting a tie-breaking vote that would produce a 51-50 result. This is consistent with Article I, Section 3, Clause 4, which states: "The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided." Nothing in Section 4 of the substitute takes away the Vice President's right to vote under such circumstances. The language requires (in today's Senate of 100) 51 votes to pass a revenue-increasing bill, not the votes of 51 Senators. Obviously, in a 51-50 vote, 51 still constitutes a majority of the whole number of 100. Also obviously, while the Vice President could turn a 49-49 tie into a 50-49 result, this would not constitute a majority of the whole number.

Changes from H.J.Res. 290/S.J.Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J.Res. 18, as reported:

Section 4 of the substitute is substantively the same as Section 3 of S.J.Res. 18 as reported.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

This section reaffirms the traditional priority presumptively attached to matters of national self-defense. In such cases, especially when the Congress and the President have taken an action as extraordinary as declaring war, financing that effort should proceed unimpeded by any requirement of additional, extraordinary votes.

Detailed analysis:

The first sentence of Section 5, or a virtually identical counterpart, has been a fixture in almost every major version of the Balanced Budget Amendment over the years. Consistent with Article I, Section 7, Clause 3, such a simple majority vote to waive this Article would have to be presented to the President for his or her approval.

The second sentence recognizes that, for most of the military conflicts in which the United States has engaged, there was not a formal declaration of war. Nevertheless, a sufficient self-defense interest is present in such situations that a Section 1 supermajority should not be required to fund such an engagement. Further definition of the criteria set forth for the "majority of the whole number" waiver in Section 5 is not needed, since the Section requires simply that the joint resolution required for the waiver declare such conditions to be present.

Changes from H.J.Res. 290/S.J.Res. 298, as introduced:

The first sentence of the substitute Section 5 makes no changes to this section as it appeared in the joint resolution as introduced. The second sentence has been added, based on an amendment approved by the Senate Committee on the Judiciary to companion legislation, S.J.Res. 18.

Changes from S.J.Res. 18, as reported:

The first sentence of the substitute Section 5 is substantively the same as Section 4 in S.J.Res. 18 as introduced.

The second sentence was approved by the Senate Committee on the Judiciary and included as an amendment to S.J.Res. 18 as reported. The difference between, and graduation of, the waiver requirements in the two sentences is intentional, and is based on the principle that the threshold of difficulty for deficit spending should be raised as the declared level of the seriousness of the military engagement declines.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

This section requires the adoption of legislation necessary, appropriate, and reasonable to enforce and implement the Balanced Budget Amendment. There is no need -- and arguably it would be a bad idea -- explicitly to foreclose the possibility of judicial interpretation or enforcement. However, this language further tilts presumptions of such responsibilities toward extremely limited court involvement. This language also is intended to prevent the possibility of an interpretation that could shift the current balance of power among the branches in favor of the Executive.

Detailed analysis:

"The Congress shall enforce and implement . . ." differs from clauses included in several other amendments that state, "The Congress shall have power to enforce . . ." This latter clause has been employed only where there was concern that the question could arise as to whether Congress had the power to pre-empt state laws or constitutions or was venturing impermissibly beyond its constitutionally enumerated powers and into the rights reserved to the states or the people.

Here, no such question of pre-emption is conceivable. Congress clearly has the power to enforce and implement this Article, under the "necessary and proper" clause in Article I, Section 8, which states: "The Congress shall have Power . . . To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

This section creates a positive obligation on the part of Congress to enact appropriate implementation and enforcement legislation. As a practical matter, this language simply requires what is inevitable and predictable. It is a simple statement that, however well-designed, a constitutional amendment dealing

with subject matter as complicated as the federal budget process needs to be supplemented with legislation. It is a means of owning up to the truth in the arguments made by many Members of Congress -- both supporters and opponents -- that Members must expect to do more than cast this one vote to pass this one amendment, to ensure that deficits are brought down and, ultimately, eliminated.

The inclusion of a positive obligation to legislate does not make the Article more difficult to enforce, nor is it without precedence in the Constitution. Article I, Section 2, Clause 3 provides: "Representatives and direct Taxes shall be apportioned among the several States . . . according to their respective Numbers, which shall be determined by . . . [an] actual Enumeration . . . made within three Years . . . and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. . . ." The critic who today asks, "What if Congress just doesn't enact implementing and enforcing legislation?" would be the counterpart of the critic who might have asked in 1787, "What if Congress just doesn't authorize or appropriate for a Census, if, in their own self-interest, they don't want the current apportionment to be changed?" In this case, it manifestly would be in Congress' own best interest to enact legislation ensuring a complete and clearly-defined budget process consistent with the Balanced Budget Amendment.

" . . . which may rely on estimates of outlays and receipts." This phrase allows Congress the flexibility in explicit language that it will need in practical effect, to make reasonable decisions and use reasonable estimates, when appropriate, as a means of achieving the normative result required in Section 1. To some extent, this phrase, too, states the obvious, that the process of budgeting and taxing and spending inevitably involves relying on estimates. "Estimates" means good faith, responsible, and reasonable estimates made with honest intent to implement Section 1 and not evade it.

The estimates contemplated in Section 6 do not apply in any way to a determination of the amount of debt referenced in Section 2. "Debt" there means actual, not estimated, debt.

Section 1 provides the standard by against which compliance with the amendment is measured. Section 6 clarifies that implementation and enforcement legislation may provide for the use of reasonable and appropriate estimates in the process of complying with Section 1. Section 6 is intended to support, strengthen, and aid the effectiveness of the other provisions of the amendment. This provision also will provide additional insurance against intrusion by the courts into the finer details of questions of compliance with the amendment.

Section 6 must not be interpreted in any way that would weaken or allow evasion of any other provision of this amendment. Over the course of the fiscal year, outlays may not exceed receipts. To the extent that any reasonable and lawful action can

be taken to prevent an excess, it must be taken. On the other hand, for example, a brief dip in receipts or jump in outlays need not trigger a sequester, rescission, or other offsetting action if there it is reasonable to assume that such a "glitch" will be offset naturally in the near-term by normal economic or budgetary fluctuations.

In order to allow for an unexpected shortfall of receipts or an unexpected increase in outlays without triggering a three-fifths debt vote under Section 2, it would be necessary that the actual debt held by the public be held below the debt limit, by a sufficient amount to offset the amount by which actual receipts or outlays may differ from estimated receipts or outlays.

It also should be noted that outlays are both more predictable and more controllable than receipts. Therefore, the handling of outlays necessarily must be held to a stricter standard than the treatment of receipts. To be more specific, of course, is difficult until the actual design of implementation and enforcement legislation emerges. In all cases, the standard to be applied to the accuracy and adjustment of estimates is to be a rule of reason.

Changes from H.J.Res. 290/S.J.Res. 298, as introduced:

Section 6 is a new section. It was added to this substitute in part to clarify the role of Congress in the implementation and enforcement of the amendment, in part to require the enactment of such legislation, and in part to clarify that whatever process Congress enacts to enforce this amendment may provide for the use of reasonable estimates.

It is also the intent of this provision to allow the use of a single level of total estimated receipts for a fiscal year, enacted into law at the beginning of the budget process, as the fixed target amount which outlays throughout the fiscal year may not exceed. In other words, Section 6 is intended to allow Congress to enact into law the process of measuring actual outlays against a fixed receipts estimate in the same way that was outlined in H.J.Res. 290 as introduced. Nothing in H.J.Res. 290 as introduced would have prevented Congress from imposing a more stringent process of measuring actual outlays against constantly-updated receipts estimates throughout the fiscal year. Section 6 of the substitute is no more and no less restrictive in this regard.

Changes from S.J.Res. 18, as reported:

Section 6 is a new section.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from

borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

This section makes clear that, for purposes of computing a deficit, balance, or surplus under this amendment, there is no such thing as "off-budget" receipts or outlays. By requiring all cash inflows and outflows to be counted, the most commonly anticipated loopholes are prevented from ever being created. Simple refinancing of outstanding debt at the same net cost of borrowing would not be affected in the normal course of business and, of course, borrowing is not considered a receipt, but rather is recognized as only the means of financing deficit spending.

As currently used and reported, both "receipts" and "outlays" are well-understood, inclusive concepts used with consistency in the budgetary process.

Detailed analysis:

"... receipts ..." is to be interpreted consistently with the use of "Receipts" in Article I, Section 9, Clause 7, which provides, in part, that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

The definition of "budget receipts" in A Glossary of Terms Used in the Budget Process (1981), as quoted in S.Rept. 99-162 and S.Rept. 99-163 (committee reports on S.J.Res. 13 and 225, respectively) still applies:

Collections from the public (based on the Government's exercise of its sovereign powers) and from payments by participants in certain voluntary Federal social insurance programs. These collections, also called governmental receipts, consist primarily of tax receipts and social insurance premiums, but also include receipts from court fines, certain licenses, and deposits of earnings by the Federal Reserve System. Gifts and contributions (as distinguished from payments for services or cost-sharing deposits by State and local governments) are also counted as budget receipts. Budget receipts are compared with total outlays in calculating the budget surplus or deficit. Excluded from budget receipts are offsetting receipts which are counted as deductions from budget authority and outlays rather than as budget receipts.

"... outlays ..." means all disbursements from the U.S. Treasury, directly or indirectly through federal or quasi-federal agencies created or under the authority of Acts of Congress. The Glossary (as cited above) defines "outlays" as follows:

Obligations are generally liquidated when checks are issued or cash disbursed. Such payments are called outlays. In lieu of issuing checks, obligations may also be liquidated (and outlays occur) by the maturing of interest coupons in the case of some bonds, or by the issuance of bonds or notes (or increases in the redemption value of bonds outstanding). Outlays during a fiscal year may be for payment of obligations incurred in prior years (prior year outlays) or in the same year. Outlays, therefore, flow in part from unexpended balances of prior-year budget authority and in part from budget authority provided for the year in which the money is spent. Total budget outlays are stated net of offsetting collections, and exclude outlays of off-budget Federal entities. The terms expenditure and net disbursement are frequently used interchangeably with the term outlays.

"Expenditures", in fact, also appears in Article I, Section 9, Clause 7, as quoted above, and is used there in symmetry with "Receipts". "Outlays" is used in this Section because of that word's overwhelmingly prevalent use in recent and current budget terminology.

Changes from H.J.Res. 290/S.J.Res. 298, as introduced:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Changes from S.J.Res. 18, as reported:

The substitute makes no changes to this section as it appeared in the Article as introduced.

Section 8. This article shall take effect beginning with fiscal year 1998 or with the second fiscal year beginning after its ratification, whichever is later.

By passing this amendment and sending it to the states for ratification, the Congress intends to bind itself, in mutual cooperation with the President, to adopt an orderly deficit reduction plan that will bring the budget into compliance with this amendment no later than fiscal year 1998.

Changes from H.J.Res. 290/S.J.Res. 298, as introduced:

The effective date has been moved from fiscal year 1995 or the second fiscal year to fiscal year 1998 or the second fiscal year. This change reflects both the passage of time since

H.J.Res. 268, 101st Congress, was considered on the House floor in 1990 (with the fiscal 1995 date) and a realistic, consensus estimate of the time needed to allow for a "glide path" down to a zero deficit. (NOTE: S.J.Res. 298, as introduced, included an effective date of fiscal year 1997 or the second fiscal year after ratification.)

Changes from S.J.Res. 18, as reported:

S.J.Res. 18 as introduced and reported simply provided that the Article would take effect with the second fiscal year beginning after its ratification.

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Answers to Commonly-Asked Questions on the Balanced Budget Amendment to the Constitution

Prepared by the offices of
Senator Larry E. Craig and Representative Charles W. Stenholm
June 1992

(NOTE: The questions and answers below were revised and updated just prior to House consideration of H.J.Res. 290 on June 10-11, 1992. For ease and swiftness of editing, all references to H.J.Res. 290 from earlier editions of this Q&A were left intact. However, these materials have been updated to apply to the Bipartisan, Bicameral Consensus version of the amendment agreed to by the principal sponsors and supporters of H.J.Res. 290/S.J.Res. 298 and S.J.Res. 18 in a series of meetings completed on June 9.)

Won't a constitutional requirement of a "balanced budget" simply invite moving some items off-budget?

H.J.Res 290 does not require that a single document, a "budget," be written in balance. Instead, it deals with actual spending and taxing bills, and how actual outlays conform to estimated receipts. Taking any item "off-budget" would have absolutely no effect on the operation of H.J.Res 290.

Wouldn't the temptation remain great to commit some other evasion, such as manipulating the definitions of terms used in the BBA?

Terms such as "outlays", "receipts," "debt held by the public", and "raising revenue" either already appear in the Constitution or are commonly understood. In the 99th Congress, Senate Reports 99-162 and 99-163 and Senate floor debate on S.J.Res 225, and in the 101st Congress, the House floor debate, went to some lengths to establish a legislative history for and preventing misinterpretation of these and other terms as used in a BBA. This year the House Budget Committee compiled a formidable amount of testimony on all sides. It also remains the appropriate role of the Members engaged in floor debate this year to build similarly clear definitions.

Won't the BBA be unenforceable in other ways, causing erosion of respect for other Constitutional provisions as well?

To a certain extent, the provisions of H.J.Res 290 are self-enforcing or interactively enforcing. Effective enforcement and orderly implementation certainly are expected in the form of enabling legislation; Members such as the Chairman of the Budget Committee have served notice most effectively in that regard. Beyond that, enforcement either is implied by the ramifications of stalemate or inaction or, to a very limited degree, could be obtained in the courts.

The Constitution requires Congress and the President to take the necessary steps to carry out Constitutional mandates. Congress is empowered to make all laws that are "necessary and proper to execute the mandate of the constitution." The President and Members of Congress take only one oath, promising to "preserve, protect and defend the constitution." It is assumed that Congress and the President will monitor each other and to the limits of their authority enforce the provisions of the amendment against the other.

The public will also have a significant role. A breach of the amendments' provisions would be readily apparent, and if a breach occurs a political firestorm very likely would erupt from the public. Public accountability is provided for in the provision that requires any vote to run a deficit to specify which outlays are "excess."

Finally, as a last resort, the judicial branch may act to insure that the Congress and President do not subvert the amendment. A member of Congress or an appropriate Administration official probably would have standing to file suit challenging legislation that subverted the amendment.

Wouldn't H.J.Res 290 dangerously and inappropriately transfer power to the courts in a whole new area by opening up to court challenge on Constitutional grounds virtually every budgetary decision made by Congress (and the President)?

The courts could make only a limited range of decisions on a limited number of issues. They could invalidate an individual appropriation or tax Act. They could rule as to whether a given Act of Congress or action by the Executive violated the requirements of this amendment. Indeed, a limited role is appropriate: In the words of Marbury v. Madison, the judiciary has a fundamental obligation to "say what the law is."

But it would be inappropriate for the courts, and it would be inappropriate to call upon the courts, to rewrite budget priorities and fiscal law. Senate Reports 99-162 and 99-163 and the accompanying Senate debate once again provide much guidance, this time as to how the "political question" doctrine of Baker vs. Carr, 369 U.S. 186 (1962), the requirement to a justiciable case or controversy (see e.g., Aetna Life Insurance Co. vs Haworth, 300 U.S. 227 (1937), and questions of standing would prevent the floodgates of litigation from opening upon the process in place under a suitable BBA. For example, Riegle v. Federal Open Market Committee, 656 F.2d 873 (DC Cir. 1981), "counsel[ed] the courts to refrain from hearing cases which represent the most obvious intrusion by the judiciary into the legislative arena: challenges concerning congressional action or inaction regarding legislation."

The traditional judicial doctrine of "standing" requires that a plaintiff has a direct and specific, personal stake or injury. A "generalized" or "undifferentiated" public grievance, such as would suggest "taxpayer" standing vis-a-vis macroeconomic policy decisions,

is not recognized.

Most questions that will arise as to compliance or enforcement will either be resolved through enabling legislation or will arise during policy-making events that trigger the self-enforcing mechanisms in the BBA (i.e., 3/5 vote to pass an increase the debt that results from a deficit in a given year) or currently in place (i.e., threat of government shutdown if a legislative deadlock persists).

Finally absolutely no role for the courts is foreseen beyond that of making a determination as to whether an Act of Congress or an Executive action is unconstitutional and a court order not to execute such Act or action. A purely restraining role is anticipated for the courts and could be guaranteed by Congress in appropriate legislation specifying standing, jurisdiction, and remedies.

If the judiciary is involved, couldn't a case drag on for years past the fiscal year in question, making every case moot?

The courts have shown an ability and willingness to expedite their processes in an emergency. Recent examples are the reapportionment cases involving Massachusetts and Montana that went all the way to the Supreme Court and were resolved in a matter of months. Congress could further ensure expeditious handling, for example, giving the Supreme exclusive and original jurisdiction over cases arising under the BBA.

What if the President and Congress do not enact necessary legislation required in implementing and enforcing statutes?

Currently, under the Constitution, if Congress fails to make appropriations or provide for further Treasury borrowing the government faces risk of shutdown. We will face the same result if Congress fails to pass necessary legislation required by implementing legislation. Absent the enactment of some other specific procedure, and assuming a deficit situation begins developing in a fiscal year, the amendment obviously implies that responsibility on the part of Congress and the Executive to estimate receipts and monitor outlays on an ongoing basis and to identify the point during the fiscal year at which disbursements simply will have to cease.

In any event, of course, failure to enact legislation or take other positive actions required or implied by this amendment will result in the "train wreck" of an increase in the debt held by the public needing to pass by a three-fifths vote of both Houses.

What if Congress, ignoring the provisions in H.J.Res 290, nevertheless passes appropriations in excess of estimated revenues?

The general charge that outlays not exceed receipts creates a

general obligation for Congress and the Executive to construct a statutory framework to enforce and implement the BBA, in advance of its effective date. Indeed, such legislation would be essential in managing the budget down its "glide path" to an eventual balance. The ultimate form of such legislation could include a revised Gramm-Rudman-Hollings type sequester, an enhanced Pay-as-you-go mechanism, or some other process reforms.

The language of Section 1 also creates an ongoing obligation to monitor outlays and make sure they do not breach the target amount fixed in an estimate of receipts. This does not envision any sort of discretionary "impoundment" power on the part of the President or courts. However, the Executive branch would be under an obligation to estimate whether outlays will occur faster or at higher levels than expected and to notify Congress promptly. If an offsetting rescission is not enacted or other appropriate legislative action not taken, then the President would be bound, at the point at which the government "runs out of money," to stop issuing checks (unless, of course such exigencies already have been accounted for in enforcement and implementation legislation in advance).

The deterrent of a budgetary "train wreck" always exists to motivate responsible budgeting: either the possibility of a government shutdown or of the need to round up 3/5 of both Houses to pass a debt increase bill without any "blackmail amendments." (For example, Gramm-Rudman-Hollings was a "blackmail amendment" attached to a debt ceiling bill in 1985, when 51 Senators refused to pass a "clean" bill.)

What is to prevent Congress and the President from drastically over-estimating revenues and then declaring, "oops," when outlays and receipts are unbalanced at the end of the fiscal year?

If such a scenario occurred, Congress would have to pass a debt ceiling increase by a three-fifths vote. The threat of a "train wreck" on the debt limit vote provides a powerful incentive for truth-in-budgeting. Any such mis-estimates will catch up rapidly with its authors within a year. A transparent mis-estimate would be subject to the very public process of budget-making. Congress and the President would avoid a widely publicized "mistake" because of its political impact.

Why is H.J.Res. 290, as introduced, different from previous BBA versions, in that it requires a 3/5 vote to raise the limit on federal "debt held by the public", rather than the "public" or "gross" debt?

When the Social Security and other trust funds run surpluses, those surpluses are invested in U.S. Treasury securities, meaning they are borrowed by the U.S. Treasury and the "public debt" (approximately the same as the "gross federal debt") is increased by that amount. Such borrowing is an intra-governmental transfer between accounts, and does NOT increase the "debt held by the public." Since the intent of

the debt limit vote in the BBA is to enforce the amendment and deter deficits, the "debt held by the public" is the closest currently-used and commonly-understood measure of indebtedness that approximates the amount that indebtedness has been increased because of total deficit spending. In other words, H.J.Res. 290 was not meant to "punish" Congress by requiring a difficult 3/5 vote just because trust funds are running a surplus.

If a contracting economy causes a revenue shortfall, wouldn't harmful, pro-cyclical measures, such as cutting spending or raising taxes be required in mid-year?

Not under H.J.Res 290. This BBA was designed to react flexibly to sudden changes in the economy by establishing the joint receipts estimate as the outlay ceiling for the entire fiscal year. A revenue shortfall would not precipitate any mandatory changes in taxing or spending.

If a contracting economy causes social spending outlays to rise in mid-year, would compensating action be required?

Possibly. Rather than try to anticipate every economic contingency in Constitutional language, the authors of H.J.Res 290 wrote what they believe remains a sufficiently flexible amendment. Several responses are possible; for example:

(1) Congress can only control what is reasonably controllable. Often, such outlay changes will be sufficiently small that it cannot be determined with reasonable precision that an imbalance will exist at the end of the fiscal year. In such a case, no adjustment would be necessary.

(2) To the extent such outlay increases are foreseeable and fairly certain, a mid-year adjustment might be necessary, relying on offsetting rescissions or other account adjustments, as is the case when a supplemental appropriations must be made deficit-neutral.

(3) If Congress and the President agree that the economic situation warrants outlay levels above the receipts ceiling, achieving a 3/5 majority to approve such spending is not an insurmountable hurdle.

What if a law enacted in the good faith belief which is revenue-neutral turns out to increase revenues?

As with other laws that may be challenged on Constitutional grounds, if it were shown that Congress and the President acted in good faith and had a reasonable basis for projecting revenue-neutrality, the law would not be struck down.

What if a bill provides for both increases and decreases in revenues?

H.J.Res 290 refers to a "bill to raise revenue." The clear intent is to look to the overall revenue effect of a bill.

What effect would H.J.Res 290 have if in the process of building a "consensus deficit-reduction bill," revenue increases were combined with spending reductions?

H.J.Res 290 differs from some previous BBAs in that it does not require a "vote directed solely to that subject" in the case of increasing revenues. Certainly, most of the sponsors of H.J.Res 290 would not object to such language. However, as currently written, H.J.Res 290 simply would require the authors and managers of such a combination bill to make a strategic decision as to whether they preferred to offer separate revenue and spending-cut bills or to subject the spending-cut provisions tied to the revenue-raising provisions in a single bill, with a need to pass by a majority of the whole membership.

Couldn't the various super-majority requirements in H.J.Res 290 thwart the wills of majorities in both Houses and the President?

Yes. Such is also the case with Senate filibusters, Gramm-Rudman-Hollings points of order, and other procedures today. As is the case with all super-majority requirements in the Constitution (or in law), the purpose is to protect the immediate rights of a significant minority, and arguably the long-term rights of the people, against a "tyranny of the majority," a phrase frequently invoked by the nation's Founders.

In the case of H.J.Res 290, a sufficient structural bias exists for deficit spending and against accountability in tax decisions that compensating super-majority protections are warranted. Moreover, it is noteworthy that the super-majority levels involved are reasonable and modest.

Shouldn't economic policy be kept out of the Constitution?

Economics is politics and vice-versa. Governance inescapably involves addressing questions of economics. Moreover, our Constitution is replete with economic policy. For example, it refers to private property rights; prescribes Congressional (and Executive) roles in federal fiscal activities such as raising revenue, spending, and borrowing; provides for uniform duties, imposts, and excises; discusses the regulation of interstate commerce; discusses the coinage and value of money; and deals with counterfeiting, patents, and but whether it encompasses broad and fundamental principles, its

relevance is not transitory, and its importance is far-reaching in scope and over time. The need for a BBA and the proposal of H.J.Res 290 in response meet this test.

Shouldn't the federal government have the flexibility to enact counter-cyclical economic measures?

Yes, and this flexibility is preserved in H.J.Res 290 by allowing Congress to spend in excess of revenues if three-fifths of the members agree that deficit spending is warranted. What the amendment would do is mitigate against the structural bias to spend and borrow (and raise taxes somewhat in preference to restraining spending) in good times as well as bad. In restoring this level playing field, H.J.Res 290 strikes a reasonable balance between requiring fiscal responsibility and allowing flexibility.

Wouldn't adopting a BBA result in cutbacks in services for the poor and needy, for senior citizens, for health and housing programs, and even possibly for defense programs?

The BBA itself would do none of these things. It would force the Executive and Legislative Branches to prioritize within a balance of receipts and outlays and force into the light of day what actual decisions and trade-offs are necessary. If this does not result in cutbacks of government programs, it will ensure that we pay for all the government we want.

Since "the BBA itself would do none of these things," isn't it just a "political free lunch," raising false hopes while diverting attention from the real and difficult budget decisions that need to be made?

Far from that, H.J.Res 290 would force Congress, the President, and the public to own up to the hard choices that need to be made. It is general because most provisions in the Constitution, encompassing broad principles as they do, should be broadly worded. But its result will be to make unavoidable the asking of those questions some in elective office have avoided: How much government do we want? How willing are we to pay for it? Which programs should be priorities?

Should the Constitution dictate such details as the budgetary period (fiscal year)?

Some such reasonable parameters are necessary to provide for an enforceable amendment. Again, the authors are receptive to perfecting changes, although it is important that whatever parameter is used is not susceptible to subterfuge (e.g., merely including a term like "fiscal period" to be defined in statute). Senate Reports 99-162 and 99-163 suggested using "fiscal year," but allowed that a reasonable

statutory re-definition could include a biennial "year."

Doesn't H.J.Res 290 imply that the President would have enhanced powers to block spending based on a pretext of unconstitutionality?

A frequent criticism of previous BBA proposals has been that the President is not brought into the budget process sufficiently to share the responsibility of governing and the blame of impasse, although the President can criticize the Congress that "holds the purse strings." H.J.Res 290 recognizes the accepted role the President has played under statute since the 1920s, by requiring the President to submit a balanced budget. The President must also share fiscal and political responsibility with Congress for H.J.Res 290's joint receipts estimate. But beyond the role in that new joint estimate, H.J.Res 290 does not broaden in any way the powers of the President. On the other hand, it does make the President more accountable for how the budget process proceeds.

Why do so many economic analyses project devastating results under a BBA?

Those that do generally assume either (1) that a balanced budget would be imposed immediately, without transition, or (2) that the requirement for balance will be adhered to without exception and that Congress (and the President in his or her recommendations) will not exercise its prerogatives under a flexible amendment to enact counter-cyclical measures.

This amendment will not go into effect until, at the earliest, two years after ratification. Once passed through both houses, we would hope that Congress would recognize the impending deadline and act to meet that date by which the budget must be balanced. By allowing a multi-year phase in, we believe any such "drastic" economic effects would be diminished, if not erased.

This amendment has the flexibility to address economic emergencies through the 3/5 release vote on balancing the budget. This allows Congress and the President to act in response to circumstances such as a recession or some other emergency, while insuring that such a decision is made in a fiscally responsible manner.

Of what use is a BBA in today's atmosphere of impending fiscal crisis, if it won't be in force for several years?

(1) A BBA is a long-term proposition. It should be adopted because it is a valid response to a long-term and structurally inherent problem.

(2) It's long-term nature notwithstanding, even a BBA that is

not in effect for several years will prompt deficit-reduction actions in anticipation of its being in place. Therefore, submission of the amendment to the states would stimulate an immediate response in federal fiscal behavior.

6/9-25/92

STATEMENT OF SENATOR SAM NUNN (D-GA)
CHAIRMAN, SENATE ARMED SERVICES COMMITTEE
BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
JUNE 29, 1993

I appreciate your invitation to appear before the Joint Committee to give my views on steps that might be taken to improve the effectiveness of Congress and the legislative process.

As I understand it, the mandate of the Joint Committee is to make recommendations in four areas: A. Improving the effectiveness of the Congress; B. simplifying Congress' operations; C. improving Congressional oversight; and D. Improving the orderly consideration of legislation.

These are all worthy goals and I fully support them, but I most point out that they do not deal with the most fundamental problem of all. Our national government is involved in every facet of American life. Members of Congress are functioning not only in their proper national roles but also as State legislators, as County Supervisors, as City Councilmen, and as ombudsmen for complaints directed at all levels of government. We are dealing with issues that run the gamut from war in Bosnia to local sewer services. And because our span of action is so broad, we don't deal with either national or local issues very well.

The solution to this problem is beyond the scope of this Joint Committee. Some President and some Congress must one day tackle this overriding and

pervasive federal role and leave state and local issues to be dealt with at state and local levels of government.

Nevertheless, I have an enthusiasm born of a hope that this Joint Committee's effort will produce changes that will alleviate many of the problems that the Congress faces. Thus I have a positive state of mind; but I am also deeply frustrated with the status quo.

Major Points

I. I would like to start by highlighting the major source of my frustration and, I hasten to add, of the frustration of many Senators, and the various departments and agencies of the executive branch - multiple consideration by Congress of the same issues.

I see no reason for the Senate to consider the same defense programs several times every year. During its consideration of the Defense Authorization bill in August 1991, the Senate took action on seven (7) amendments on the Strategic Defense Initiative (SDI) program and two (2) amendments on the B-2 bomber program. In September 1991, during its consideration of the Defense Appropriations bill, the Senate took action on three (3) amendments on the SDI program and two (2) amendments on the B-2 bomber program. Although the various amendments on these two programs were packaged somewhat differently, the underlying policy issues were the same.

Four major committees must decide on every weapon system and virtually every other detail of the Defense Budget every year. Every proponent of a program or expenditure has four separate forums to appeal to. Why can't we consider each issue once with a full blown and informed debate? And why can't we authorize and appropriate defense expenditures only once every two years, unless there are major developments in the international security environment or the program performance which would justify an annual debate?

I believe we should consolidate the authorization and appropriation committees, and I support S. Res. 13 introduced by Senator Kassebaum. Such consolidation would ensure that major defense programs are subjected to comprehensive and careful consideration, with spirited and informed debate within the consolidated committee and on the Senate floor. Consolidation would provide an opportunity to reduce committee staffs; provide a single focus for legislative action and oversight; and, in the end, provide greater certainty and continuity for major defense programs.

Assuming seniority prevails, I would give up my chairmanship as a result of a consolidation of the Armed Services Committee and the Subcommittee on Defense and the Subcommittee on Military Construction of the Committee on Appropriations. This is a price I would be willing to pay to see the Senate and the legislative process function more effectively.

Consolidation would also benefit the Defense Department by reducing the number of times that administration witnesses must appear before Congressional committees to give essentially the same testimony.

A consolidation would also foster a new and higher degree of discipline on both houses of Congress. It is very unfortunate that, for a number of reasons, the Congress has not been able to pass authorization bills for a number of functions and departments. This has not, however, been the problem in defense. There has been a defense authorization bill each and every year since the modern day requirement starting in 1961. But, the lack of authorization bills in other key areas not only means that a number of substantive legislative initiatives are thwarted, it encourages major legislative action on appropriation bills. It results in the appropriation of funds for programs and purposes that have no underlying authorizations and accompanying policy guidance. To give an example, the failure of the Congress to pass Foreign Aid authorization bills leads to the inclusion of piecemeal rather than comprehensive legislation on foreign operations appropriation bills. It encourages, for example, the inclusion of foreign relations type provisions in the defense bills since members believe they may not have another opportunity. Additionally, this practice leads to the breakdown of the rules that prohibit legislation on appropriations bills, and fosters the practice of including legislation on other appropriation bills even in those instances where the Congress has already passed an authorization bill for the same function.

Let me speak for a few moments about unauthorized appropriations and earmarking. This is a relatively small matter in terms of dollar amounts, although it can total up into the billions, but it is, in my view, a most important matter in terms of the integrity of the legislative process. Permanent law provides that no funds may be appropriated, obligated or expended for any year to or for the use of any armed force without an authorization. Existing law also provides that no funds for the performance of research and development by colleges and universities may be granted or awarded without competition. Unfortunately defense appropriation bills in recent years have included provisions that depart from both of these requirements of existing law. The Defense Department has sometimes taken the position that the passage of an appropriation bill, with specific earmarks, after the passage of the authorization bill amounts to an authorization for those earmarked projects or that the appropriation bill supersedes the previous prohibitions in law against such earmarks. Such inconsistency is inherent in a process wherein Congress legislates twice on the same subject in the same session.

II. A consolidation of the authorizing and appropriation committees would also facilitate the achievement of a two-year funding process. I am a strong advocate for a two-year budget. In my 6 years as chairman of the Senate Armed Services Committee, there have been 3 two-year defense authorization bills. If there had been the same number of two-year defense appropriations bills -- or combined defense authorization and appropriations bills -- we could have spent

the first year focussing on the international security environment and the justification for and the funding of major defense programs. We then could have spent the second year in oversight of those programs. Of course, if there are major changes in the international environment, the second year would have to take those changes into consideration as well. In other words, there would be greater certainty but the Congress would not be precluded from making significant changes in the funding profile for programs in the second year for other than programmatic reasons.

The Defense Department and other executive branch departments must feel whip-sawed as they participate in and watch the legislative process. The Service program managers for major defense programs need as much certainty and continuity as they can possibly have, if they are to intelligently manage their programs so as to expend the taxpayers dollars as efficiently and wisely as possible.

Accordingly, I favor a two-year budget resolution and a two-year authorization and appropriations process.

III. I want to raise another issue on which I know you have already heard testimony. It has to do with the differences in jurisdiction between the Senate and the House over Tactical Intelligence and Related Activities (TIARA). In the House, the permanent Select Committee on Intelligence has jurisdiction over this portion of the Defense budget. In the Senate, the Armed Services Committee has jurisdiction. I feel very strongly that the TIARA budget must

remain under the jurisdiction of the Senate Armed Services Committee. Ideally, it would also be under the jurisdiction of the House Armed Services Committee.

To properly consider this issue, one must understand the activities that are funded through the TIARA budget and one must review the purpose for which the Intelligence Committees were created. The Select Committee on Intelligence was created in an atmosphere of lack of trust in the Central Intelligence Agency and was intended to provide oversight of national intelligence activities. While some Defense Department tactical intelligence programs contribute to national foreign intelligence objectives and activities, they exist primarily to support the requirements of the combatant commands and are thoroughly integrated with military operations. When the Armed Services Committee considers tactical intelligence programs and activities, it does so in combination with its consideration of the weapons systems, command and control systems, and military functions that they support. For example, the intelligence system used by the Navy for aerial reconnaissance today consists of reconnaissance cameras in a pod carried by F-14s. Taking that integral pod out and putting it under the jurisdiction of another committee provides no improvement in oversight and has the potential for major liabilities. If it were separated from the Navy aircraft and wing organization, the Navy's reconnaissance system would compete with a range of totally unrelated reconnaissance capabilities. From the perspective of the Intelligence Committee with its focus on national level systems, modernization of this little

reconnaissance capability would be insignificant compared to some of these other systems. Yet it might be crucial to the effectiveness of the carrier operation and the strike force. It would not be logical to consider tactical intelligence programs and activities without reference to the other programs that they support.

IV. Finally, I want to briefly mention a new matter that I believe poses a more fundamental threat to this institution. When President Bush authorized the deployment of U.S. armed forces to Somalia pursuant to a United Nations Security Council Resolution, Congress was not in session. I am sure that virtually every member of Congress will agree that the Constitutional war making powers of Congress are among our most important, if not our most important, power and responsibility. Sending our armed forces into harms way requires the careful and considered judgment of the President and the Congress.

The decision to send our forces to Somalia, ultimately involving more than 25,000 men and women of our armed forces at a cost during fiscal year 1993 of approximately \$800 million, excluding the pay and allowances of those forces, is certainly a significant matter. In the case of this specific humanitarian intervention operation, called Operation Restore Hope, there was almost unanimous backing by members of Congress, but that has not been and will not always be the case.

As I noted previously, the actual deployment of forces to Somalia occurred when Congress was not in session. Subsequently, on February 4,

1993, the Senate passed S.J. Res. 45 authorizing that deployment. The House did not deal with that legislation for several months and only passed its version of the Joint Resolution on May 25th. The Senate has still not considered the House action on the Joint Resolution. Every day we see our forces engaged in combat under United Nations auspices in Somalia. Are we serious about our role under the Constitution?

My point in raising these matters is to recommend that you also explore the means by which the Congress can exercise its war making powers in situations wherein the Congress is not or normally would not be in session. As I recall, the Congressional leadership made arrangements for Congress to be called back into session at the call of the leadership two years ago at the time when substantial U.S. forces had been deployed to the Persian Gulf to defend Saudi Arabia and our other friends in the Gulf but prior to the time that a decision, or at least a public decision, had been made to launch an offensive to liberate Kuwait.

Rule Changes

I would also like to raise another issue which is similar to the multiple consideration by Congress of the same issues. While I am still studying the remainder of the majority leader's proposals for changes to the Standing Rules of the Senate, I want to note my strong endorsement of his first proposal to provide for a limit of two hours on debate on a motion to proceed to any

legislative calendar item, made by the Majority Leader, or his designee. The present rule, whereby such a motion to proceed, if made outside of the morning hour, is debatable and in many cases requires the filing of a cloture motion, wastes as much as four days of the Senate's time. The proposal would still preserve the ability to debate and, if desired, to filibuster, but such would take place during the pendency of the measure itself and not on the motion to proceed. This would greatly enhance the Senate's efficiency, would be consistent with the need for the Majority Leader to control the agenda of the Senate, and would focus the Senate's debate on the merits of the issue.

One additional point pertains to the Senate rules concerning conference reports. Rule XVII provides in part that any measure reported by any standing committee of the Senate shall not be considered unless the report of that committee on that measure or matter has been available to Members for at least two calendar days (excluding Sundays and legal holidays) prior to its consideration. Rule XXVII, however, provides that the presentation of committees of conference shall always be in order when available on each Senator's desk. We all know that even two days is scant time for a careful reading of a bill and it is even more difficult in the case of appropriations bills which are written in a manner that makes them particularly unfathomable without reference to both the Senate and House bills that preceded the conference. We all also know that, while committee reported bills are important, their contents

are not final; it is the conference reports which really matter because they are the final result. I believe that it is essential that the two day rule apply to conference reports as it does in the case of all other measures.

Armed Services Committee

Finally, Mr. Chairman, I want to provide some brief comments about the jurisdiction, workload and productivity of the Senate Armed Services Committee. The Committee is basically vested with broad Jurisdiction over all matters relating to the "common defense." Although mere statistics alone cannot give an accurate picture of the hard work and dedication of the committee and staff members, I would advise that the Armed Services Committee typically devotes between 4 days and 2 weeks in markup of the National Defense Authorization bills; spends between 3 days to 2 weeks on the floor, not counting filibusters or other delays; disposes of anywhere from 76 to 125 amendments; and consumes between 35 and 61 hours of floor debate. In the last five years, the Committee has conducted between 56 and 99 full committee hearings and meetings and between 46 and 54 subcommittee hearings and meetings; reported 11 to 35 bills and resolutions; and acted on 17 to 40 statutory nominations and 28,416 to 44,870 military nominations. The Senate Armed Services Committee ranks in the top three positions in the statistics that the Rules Committee keeps on committee activities.



Statement of the U.S. Chamber of Commerce

ON: PROPOSALS FOR CONGRESSIONAL REFORM

**TO: JOINT COMMITTEE ON THE ORGANIZATION OF
CONGRESS**

BY: NED W. MASSEE

DATE: JUNE 29, 1993

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest federation of business companies and associations and is the principal spokesman for the American business community. It represents more than 215,000 businesses, plus 3,000 local and state chambers of commerce, 1,200 trade and professional associations, 65 American Chambers of Commerce Abroad, and 11 bilateral international business councils.

More than 96 percent of the Chamber's members are small business firms with fewer than 100 employees, 71 percent of which have fewer than 10 employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business -- manufacturing, retailing, services, construction, wholesaling, and finance -- numbers more than 11,000 members. Yet no one group constitutes as much as 36 percent of the total membership. Further, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the 65 American Chambers of Commerce Abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of its members serving on committees, subcommittees, and task forces. Currently, some 1,800 business people participate in this process.

STATEMENT
ON
PROPOSALS FOR CONGRESSIONAL REFORM
BEFORE THE
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
FOR THE
U.S. CHAMBER OF COMMERCE
BY
NED W. MASSEE
JUNE 29, 1993

I am Ned Massee, vice president of public affairs for Westvaco Corporation in New York. I am also a member of the U.S. Chamber of Commerce Public Affairs Committee and chairman of its Government Process Task Force. I am pleased to have the opportunity to testify today on behalf of the U.S. Chamber of Commerce 215,000 businesses, 3000 state and local chambers of commerce, 1200 trade and professional associations, and 65 American Chambers of Commerce Abroad on proposals for congressional reform.

In 1991, the Chamber's Public Affairs Committee organized its Government Process Task Force. Our mission was to consider improvements in the overall legislative and political process. We held numerous meetings, and after carefully

considering the options for improving the congressional process, we made recommendations to the Chamber Board of Directors for congressional process reform. The Board-endorsed recommendations and previously established Chamber policy are the basis for my comments today.

The Chamber supports the goal of the Joint Committee on the Organization of Congress to improve the legislative operations of the House and Senate. The time for reform is now. Last November, the American people demonstrated their interest in reform by electing the largest freshmen class of Congress since 1948. Many of the freshmen members of Congress ran for office on promises of reform, and are eager to follow through on their pledges.

The goal of congressional reform should be to make the legislative branch more efficient. We need constructive reform. While addressing the issue of perks and privileges has its constituencies, implementing procedural reform will truly make for an effective legislative branch which fosters debate and creates good public policy. The U.S. Chamber supports the following Congressional reforms:

- Subject Congress to the same labor, civil rights, environmental, and employee benefits laws as individuals and businesses.
- Limit the terms of committee chairmen.

- Limit the number of consecutive years members can serve on a committee.
- Reduce the number of committees or clearly define and limit their jurisdiction.
- Establish further limits on the usage of the franking privilege.

CONGRESSIONAL COVERAGE

One reform that many members of Congress in both parties agree should be made, and which has broad business support, is applying all laws to Congress. Currently, Congress is, for the most part, exempt from laws it has imposed on companies and individuals. The primary defenses cited by members of Congress are separation of powers and compliance costs. Congress doesn't want to fall under the control of the executive or judicial branches. Nevertheless, separation of powers does not mean that any of the branches should be *exempt* from the law.

The provisions of all such laws currently apply to the Senate, but enforcement is in the hands of the Senate itself. I do not believe Congress would want the private sector to be responsible for policing itself.

In a recent poll by the Chamber, nearly 92% of our members opposed such congressional exemptions. Clearly, there is overwhelming opposition, particularly within the business community, to congressional exemptions. One of the key reasons that too many voters hold Congress in relatively low regard is the perception that Congress thinks it is above the laws it passes. If Congress were required to abide by the laws it imposes on others, members of Congress will experience firsthand the impact of those laws. This impact may become more of a critical factor in future legislation. By equally complying with laws, members of Congress fulfill their leadership roles by placing themselves on the same level as those they represent.

LIMIT TERMS OF COMMITTEE CHAIRMEN

The Chamber supports a limitation on the terms of committee chairmen. While we have had the opportunity to work with very effective and capable committee chairmen, we believe public policy would be better served with more periodic change in committee chairmanship. Over the years of service, committee chairmen or senior committee members have become very powerful. The present committee chairmanship system encourages a member of Congress to gain substantial, and at times undue, levels of power on a particular committee. By limiting the tenure of committee chairmen, the ability for any one member to gain an inordinate amount of

power is minimized. In addition, more members of Congress are given the opportunity to move into leadership positions, giving all of us the benefit of their insight and expertise. The effect of losing a good chairman will be outweighed by allowing more rotation of leadership positions. Once in a leadership position, the most determined chairmen should be able to advance their legislative agendas within a few years.

LIMIT THE NUMBER OF CONSECUTIVE YEARS OF COMMITTEE SERVICE

Related to the previous discussion of limiting the terms of committee chairmen, our next recommendation is to limit the number of consecutive years members can serve on a committee. This new leadership would guarantee new ideas, alternatives, and input that would flow into committees on a regular basis. By rotating committee assignments after an agreed-upon number of years, members would have the opportunity to gain experience in new and different areas.

Precedence has already been established for limited committee service by the limitations currently in place for three very important congressional committees: House Budget Committee and the House and Senate Intelligence Committees.

Some members of the current freshmen class were successful in obtaining committee assignments on several of the much sought-after committees such as Appropriations, Ways and Means, and Energy and Commerce. This was the exception rather than the rule. But we can make this the rule by limiting the number of years members can serve on committees, so that slots like these would become available for the more junior members of Congress.

REALIGNMENT OF THE COMMITTEE STRUCTURE

The overlapping committee jurisdiction and the number of committees that must review legislation only impedes the process of creating good public policy. In addition, the greater the number of committees and subcommittees that can claim jurisdiction, the greater the opportunities for legislation to "die" in committee. Currently, there are nearly 300 full committees and subcommittees. Either the jurisdiction of the committees needs to be clearly defined and limited or the number of committees should be reduced.

Let me share with you a classic example of this problem. Energy legislation typically falls within the jurisdiction of 40 plus committees and subcommittees. The

original Clean Air Act was one-and-a-half pages, while the latest renewal bloated to more than 313 pages. Clearly, to expeditiously move legislation through the process, the committee structure must be streamlined.

REFORM THE FRANKING PRIVILEGE

Our final recommendation addresses the issue of the franking privilege. While the Chamber recognizes the need of members to communicate with their constituents, we believe that there is an equal need to establish limits and extents of acceptable usage of the franking privilege. The privilege is intended to keep constituents aware of the members' activities on the Hill, not as a cover to dispatch re-election materials. Franked mail for campaign purposes offers an unfair advantage for incumbent members over challengers. Such usage must be stopped.

CONCLUSION

The Chamber commends the Republican and Democratic freshmen classes - both of which have put forth reform proposals. There was a substantial amount of overlap between the two reform packages, including provisions on many of the recommendations I have outlined here today. The Chamber is pleased with the bipartisan support for the need to substantively reform Congress, and we pledge to work closely with this Committee and the Congress in achieving this goal.

Mr. Chairman, let me close my statement with a quote.

"Unless we now make an effort to increase the efficiency of senators individually, as well as the Senate as a whole, we will continue to lose our prestige with the people of the United States ... I assert that if we allow the opportunity to pass unheeded, we shall miss the great challenge which is being made at the moment to make this great legislative body an efficient organization."

Those words were spoken by Senator Wallace H. White, Jr. of Maine in 1946. Senator White knew then that forgoing the opportunity to seriously reform Congress would mean missing a chance to make the institution more efficient. Congress went on to pass the reform bill that White supported. The 103rd Congress now needs to do the same.

Common Cause

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Congressional Ethics Procedures and Employment Discrimination Procedures

**Testimony presented by Fred Wertheimer
President
Common Cause**

Before the Joint Committee on the Organization of Congress

June 29, 1993

Mr. Chairman, Members of the Joint Committee:

I appreciate the opportunity to present Common Cause's views on ways to strengthen and improve the operation of Congress and commend you, Mr. Chairman, and members of this committee for these hearings on a wide range of issues concerning reform of congressional operations.

I intend to focus our comments today on two specific areas. The first is reform of the congressional ethics process. The second is suggested changes in the way Congress deals with allegations of employment discrimination.

I. CONGRESSIONAL ETHICS PROCESS

Common Cause Senior Vice President Ann McBride recently testified before the Senate Ethics Study Commission on the issue of reforming the congressional ethics process. My testimony today incorporates the views Common Cause presented at that hearing.

The integrity of government is fundamental to our system of representative

-3-

democracy. If the institutions of government are to command the respect, trust and confidence of the people, the individuals who serve in those institutions must operate and must be perceived as operating according to high standards of fair and ethical conduct. Nowhere is this more important than in Congress.

To meet this challenge, the Congress must first have rules that set high ethics standards for its Members. But as important as the rules are, they are not enough. Without effective enforcement and oversight, even the best rules can be rendered meaningless. Without effective ethics enforcement and oversight, lowest-common-denominator ethics are allowed to set the standards for the institution, the credibility of congressional decisions is diminished, and the moral authority of Congress is undermined.

Dennis Thompson, Professor of Political Philosophy at Harvard University's Kennedy School of Government and Director of the university-wide Program in Ethics and Professions, has underscored the importance of ethics rules and enforcement to congressional decision-making:

Political ethics provides the *preconditions* for making good public policy. ... Ethics rules, if reasonably drafted and reliably enforced, increase the likelihood that legislators (and other officials) will make decisions and policies on the basis of the merits of issues, rather than on the basis of factors (such as personal gain) that should be irrelevant.

Effective ethics rules and enforcement are needed to protect the institution from the damage done when someone engages in unethical or illegal activities. It

is not enough to rely only on either criminal prosecution or voter rejection at the polls to punish misbehavior by Members. Although both sanctions are powerful, they are by themselves inadequate to accomplish the task of protecting the integrity of the institution. Effective ethics enforcement and oversight is also needed to help ensure that Members and staff are aware of and comply with their ethical obligations and to help guide those Members who are ethically conscientious.

Each body of Congress, under Article I, §5, cl. 2 of the U.S. Constitution, has the responsibility to monitor and take action on any final decision to sanction or punish a Member for violations of ethics rules and standards. The process that the Congress currently uses to arrive at this decision, however, has lost credibility.

Many outside of Congress believe that too often in the past the congressional ethics committees have compiled a record of lax enforcement and oversight. Inside Congress, dissatisfaction with the ethics process transcends party and ideological lines. The former chair of the Senate Ethics Committee, Senator Howell Heflin (D-AL), has expressed his own doubts about the current process: "There are just innumerable things wrong with senators judging senators. You censure someone, and the next day you're seeking their vote." Another Ethics Committee member, Senator Trent Lott (R-MS), echoed Senator Heflin's views, stating, "Maybe it's an impossible assignment to try to sit in totally dispassionate judgment on people we literally live with."

Nevertheless, the Constitution places responsibility on Members of Congress

-5-

to make the final decision in these cases. We believe that within this constitutional framework, the key is to build an effective independent voice to help ensure objectivity and credibility for the process.

Common Cause recommends several changes which, if enacted, could significantly improve the current process for dealing with allegations of ethics violations.

Creation in Each House of Congress of an Office of Ethics Counsel to Ensure an Independent Voice in the Congressional Ethics Process

It is essential to structure an ethics process that will have the necessary independence to interpret and enforce ethics rules and laws and that will be viewed both inside and outside of Congress as ensuring a credible process. One way to achieve this would be to create an independent Office of Ethics Counsel for each House of Congress.

This Office would be charged with two main tasks. First, each Office of Ethics Counsel would be responsible for investigating, and where appropriate presenting to the respective ethics committee, allegations of violations of ethics standards or rules. In exercising its functions, each Ethics Office would have authority to hear witnesses, gather other evidence and bring charges before the body's ethics committees. Second, the Office of Ethics Counsel would be responsible for interpreting ethics rules, issuing advisory opinions and providing ethics training.

The head of the Senate Office of Ethics Counsel could be appointed by an agreement between the Majority and Minority Leaders with a similar appointment for the House office made by the House Speaker and the Minority Leader. To ensure independence, the head of each office should serve for a fixed term, with removal only for cause, as is the case with the Director of the Office of Government Ethics (OGE) in the executive branch. To ensure credibility, the head of each office should be an individual who meets high standards of integrity and has a proven record of professionalism and impartiality.

1. Role of the Office of Ethics Counsel in enforcement proceedings

Many have criticized the current ethics process in the Senate for allowing the Ethics Committee to serve multiple functions in enforcement proceedings -- investigator, prosecutor, jury and judge. Others have faulted the enforcement system in both bodies for not providing sufficient independence within the process.

The creation of independent Offices of Ethics Counsel would help to remedy these two major problems while meeting the constitutional requirement that the Members of each body be the judge of its own Members. The procedure would be a bifurcated, two-step process with the independent Ethics Offices responsible for conducting investigations to determine if there is substantial, credible evidence that a violation had occurred and for bringing charges before the Senate or House ethics committee. Upon receiving information of a possible violation or on its own initiative, the Office would look into a matter to see if further investigation was

-7-

warranted. At this point, the Office could decide against further investigation if, for example, the source was non-credible, the charge frivolous or easily proven to be untrue. Because a decision not to pursue an investigation would be made by an independent entity, the decision would have greater public credibility.

If the investigation proceeded, the Office could determine if use of an outside counsel was warranted and, if so, could select an outside counsel, perhaps from an agreed-upon list of private lawyers who meet established criteria and would be willing to take cases as the need arises. An outside counsel is particularly necessary in controversial or complicated cases. The ability of the Ethics Office to obtain the services of an outside counsel when needed would allow the staff of the Office on a day-to-day basis to remain relatively small.

If the Ethics Office finds substantial credible evidence, the Office would bring the case and any recommendations for sanctions to the Ethics Committee to hear and decide.

We believe that this process could work with either one Ethics Committee in each body hearing all cases in a Congress or with an ad hoc committee established for each case.

2. Role of the Office of Ethics Counsel in interpreting ethics rules and providing advisory opinions

In the current process, responsibility for providing interpretations or advisory opinions falls to the congressional ethics committees and their chairs and ranking

members. In the House, the Office of Advice and Education established in 1989 is under the House ethics committee.

A lack of ongoing and vigorous oversight has undermined rules that in some cases are ignored and cease to be effective. A prime example is the ban on the personal use of campaign funds where a record of inaction has allowed a number of questionable uses of campaign funds to become common practice, such as the purchase with campaign funds of meals, country club memberships, vacations and even automobiles.

To ensure ongoing enforcement and clear and correct ethics guidance, there must be a strong mandate for and commitment to effective ethics oversight, backed by the necessary resources. An Office of Ethics Counsel for each body could provide the needed independence, mandate and resources to carry out oversight functions. The Office could interpret the rules and make public its interpretations, providing overall guidance to Members and making clear to the public what the rules mean and how they apply in general cases. The Office could also serve as a clearinghouse for giving Members reliable and timely advice on ethics and providing written advisory opinions on specific ethics questions from individual Members.

Common Cause believes that an independent voice in interpretation and advice would improve the current process and provide public credibility to the results. An Office of Ethics Counsel for each House could help ensure an

affirmative commitment to uphold standards and could help ensure that guidance is given in a way that reinforces -- and does not undermine -- the rules.

Some have criticized the ethics process as not focusing enough on helping Members and staff to understand and live up to high ethical standards. An independent Office of Ethics Counsel could help not only by placing more emphasis on interpretation and advice but also by establishing ethics education to train Members and staff in ethics standards and concepts.

A model for these functions may be found in the Office of Government Ethics in the executive branch. OGE currently interprets executive branch rules and standards, issues advisory opinions for the executive branch, provides ethics training and consults with agencies and individuals to ensure ethics rules and standards are consistently and uniformly interpreted and enforced. The Director of OGE is appointed for a five-year term and is removable only for cause.

Ensuring That Sanctions are Consistent, Commensurate with Violations and Publicly Credible

Under the current system, obviously the most serious sanction facing a Member who violates congressional ethics rules and standards is expulsion from the Congress. For most rules violations, however, the punishment most often imposed is one of a series of verbal sanctions. There is a missing element between these two current choices.

While the ethics committees may recommend the loss of seniority, it has

rarely been used as a sanction and the committees must go to a party caucus to get such a sanction imposed.

In order to strengthen the ethics process, potential loss of seniority and positions of responsibility in Congress should be explicitly made one of the possible choices of sanctions the ethics Committees may choose to recommend to the full House and Senate in cases of serious violations. Congress allocates institutional power largely on the basis of seniority. Losing seniority and positions of congressional responsibility would permit disciplined Members of Congress to fulfill their constitutional responsibilities to their constituents, while making clear that improper or unethical conduct carries commensurate institutional sanctions.

Common Cause believes that the creation of new independent Offices of Ethics Counsel for the House and Senate would strengthen procedures for handling alleged ethics violations, help provide clear interpretation of the rules and impartial ethics guidance, and provide credibility to the process. We stand ready to work with you in any way that we can as you move forward with your important mandate.

II. EMPLOYMENT DISCRIMINATION

Despite establishing a system more than twenty years ago for dealing with employment discrimination in the executive branch and in the private sector, Congress has failed to provide the same protections for its own employees.

In recent years, Congress has taken some significant steps to bring its employees under the coverage of the nation's employment discrimination laws. But the enforcement procedures for dealing with employee grievances, especially in the House, lack essential elements of the process established under the Equal Employment Opportunity Act for executive branch employees.

There is no rationale for allowing Members of Congress to operate under a system of anti-discrimination laws that provides congressional employees with less effective enforcement procedures than those that apply to executive branch employees.

Some Members of Congress and others have advanced the argument that because of the unique nature of the institution and congressional business, Members must have complete discretion in the hiring, firing and work conditions of employees.

Few would argue with the proposition that Congress, as the only national body of elected officials, is unique. There is, for instance, some validity to the contentions that Members' staff need to be politically compatible and, in some cases, may need to be from the Member's state or district.

But beyond this narrow exception, Members of Congress should be subject to the full force of employment discrimination laws, including enforcement mechanisms modelled on those existing for executive branch employees.

Current Procedures for Employment Discrimination Complaints

Currently, about 20,000 employees of Congress, including House and Senate employees, members of the Capitol Police Force and employees of the Architect of the Capitol do not have the same level of employment discrimination protection as federal employees outside of Congress. (Other legislative branch employees, primarily in the Library of Congress and the General Accounting Office, have the same protections as executive branch employees.)

House of Representatives

In 1988, the House established the Office of Fair Employment Practices (OFEP) and set up a grievance procedure for employees who believe they have been subjects of discrimination in violation of House rules.

In 1990, the House brought House employees under the provisions of the Americans With Disabilities Act and in 1991 under the provisions of the Civil Rights Act. The House did not include itself, as the Senate did, under the provisions of the Rehabilitation Act and the Age Discrimination in Employment Act (although age discrimination is prohibited under House rules).

Senate

On October 28, 1991, the Senate passed, by the unanimous vote of 92

Senators, S. Res. 209, which condemned sexual harassment and stated:

It is the sense of the Senate that the Senate does not tolerate or condone sexual harassment in government, private sector, or congressional workplaces, and that the Senate should consider appropriate changes to the laws of the United States and the rules of the Senate to prevent sexual harassment.

The Senate acted at the same time to include provisions in the Civil Rights Act of 1991 to bring Senate employees under protections of that Act, the Americans With Disabilities Act, the Rehabilitation Act and the Age Discrimination in Employment Act. The Senate excluded "party affiliation, domicile or political compatibility" as grounds for discrimination complaints.

In the Civil Rights Act of 1991, the Senate provided for the establishment of a new Senate Fair Employment Practices office headed by a director appointed by the President pro tempore of the Senate on the recommendation of the Senate Majority Leader in consultation with the Senate Minority Leader. The office oversees the employment discrimination complaint process, while independent hearing officers, who are not Senate employees or officers, hear and decide on complaints. The process allows for either side to appeal the decision to the U.S. Court of Appeals for the Federal District.

Problems With Current Procedures

The Senate OFEP, with independent hearing officers and court review, is a far better process than in the House. It is apparent that the procedures in the House have serious shortcomings. According to a recent General Accounting

-14-

Office, there have been only seven formal complaints filed by House employees since the office opened in November 1988. Since there have been more than 1,200 "inquiries" made to the office, almost one-third with specific employment discrimination concerns, it appears that employees with complaints feel constrained from pursuing the procedures for formally making complaints.

A critical deficiency of the process in both houses is that congressional employees do not have full, direct recourse to the courts. Decisions reached about Senate employees under the Senate's procedures are subject to review by an appeals court. There is no such review available to House employees. Neither Senate nor House employees, however, can bring direct suit against their employers if they are not satisfied with the results of the congressional process -- a right enjoyed by executive branch employees.

There are other significant problems with both the House and Senate enforcement processes.

The process for reviewing decisions of the OFEPs has serious problems in both the House and Senate. In both bodies, the responsibility for reviewing the decisions of the offices lies with the employers: the Ethics Committee in the Senate and, in the House, a panel that includes Members of Congress -- it is composed of four members of the House Administration Committee and four staff or House officers chosen by the Speaker and Minority Leader.

Recommendations

Common Cause believes that the procedures in Congress for dealing with employment discrimination complaints are inadequate and need to be changed in order to ensure that employees of Congress are provided with the same anti-discrimination protections as employees of the Executive Branch, including full recourse to the courts.

The process for hearing and acting on complaints should be significantly reformed, including establishment of a single fair employment practices office for the legislative branch with a staff chosen for expertise in the field of employment discrimination. The head of the office should be appointed to a fixed, ten-year term and hearing officers should be chosen from experts outside of Congress.

Review of decisions should be either directly to court or by a panel of independent experts in the field of employment discrimination, chosen by the head of the office. Review by panels dominated by Members of Congress necessarily raises questions by potential complainants about whether the system will treat their interests fairly. The ethics committees should have no role in reviewing the decisions of the office. Those reviewing the office's decisions should be independent of the institution and should not include officers of the House or Senate or Members of Congress.

We believe taking these steps will substantially strengthen the current process for addressing employment discrimination in Congress and help to ensure

-16-

that employment discrimination laws are enforced for Members of Congress by a process that is substantially the same as that which applies for the rest of government.



Testimony of Paul Jacob
Executive Director
U.S. Term Limits
before the
JOINT COMMITTEE
ON THE ORGANIZATION OF CONGRESS
June 29, 1993

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Mr. Chairman. Members of the Committee.

This Joint Committee on the Organization of Congress exists because the American people are crying out for reform in government, and nowhere is there more dissatisfaction among the voters, nowhere is reform more urgently needed than in the United States Congress.

I come to help save Congress, not to bash it. The United States Congress is the flagship institution of American democracy, revered throughout the world. But as of late, Congress has been reviled and ridiculed here at home. Scandal, gridlock, pay raises, lavish pensions, I don't have to tell you how the public feels about the state of Congress.

The best first step in restoring Congress to its rightful place is limiting the number of terms a congressman can serve. This reform has come from the American people, from the grassroots. A recent poll showed support among Democrats, Republicans and Independents at 75% and above. No reform would do more to restore confidence and stimulate performance in Congress than term limits. Term limitation will both improve representation and open up the system for true reform.

Some say term limitation is a simplistic solution. They are right, it is a simple and straight-forward idea. Simply put, Americans want representatives in Congress who are truly "of the people." Representatives who see themselves as on temporary leave from their communities. Representatives who know on the very first day they enter the Capitol building that they are here for a short period of time to carry out their public trust, and then to return home to live under the laws they have made.

(more)

Testimony, June 29, 1993

Page 2

The American people have had enough of career politicians and want to return to the original idea of the founders: citizen legislators. The idea that government must not become the province of the few or the so-called experts or professional politicians, but rather be open and accessible to the average person is at the very heart of our society.

This idea led Thomas Jefferson to point out 2 important shortcomings of the Constitution: (1) no Bill of Rights, and (2) no mandatory rotation in office. Jefferson placed term limits on the same level as the Bill of Rights in maintaining citizen control of government, and thus freedom. This idea of rotation in office is why George Washington chose to step down after 2 terms as President.

In this cynical and corrupt city, the American people are often viewed as saps and suckers for believing in the dream of our founders for citizen government, for believing in citizen legislators. But I'm here today to speak as best I can as one of the saps who pays the bills around here, and let me tell you that dream is still alive and well in the common people of this great country, and the time has come for Congress to stop fighting the people's will, stop ignoring it, and listen to the people who you are supposed to serve.

Term limits will return the process of democracy to the people. The election process in this country has been monopolized and closed to the vast majority of people. That is a nightmare for a free society. If Congressmen were subject to the same anti-trust laws as businesses you would all be in court.

Term limits mean more opportunity for more people to serve. Incumbents have every advantage over challengers, you know it. Term limits will give us the one thing that has been shown to enable women, minorities and other challengers to have a fair chance to win -- open seat races. Of the 24 new women elected to Congress in 1992, 21 were elected to open seats -- they did not defeat an incumbent. Over 70% of women and minority members of Congress have been elected in open seat races.

Furthermore, if you want financially competitive campaigns, support term limits. Open seat races are

(more)

Testimony, June 29, 1993
Page 3

statistically twice as competitive financially (without any money from taxpayers) as are incumbent/challenger races.

This Committee and others in Congress have talked a great deal about reform. The voters have no faith that members of Congress will pass meaningful campaign finance reform that increases the chance you will be defeated at the next election. Countless bills have been passed before and the result has always been greater advantages for incumbents. I have seen no campaign finance proposal in Congress that would not benefit incumbents. Other minor, internal reforms will not solve the problem either.

In fact, it seems much of the energy behind these reforms is fear of the term limit movement. Senator Boren was quoted in the Washington Post, "Unless we pass campaign finance, lobbying, and congressional reform, I think the term-limit movement will gather steam and become unstoppable. The status quo is not an option. If we don't deal with these matters, people will do so with term limits." But I submit that until we have term limits and a change from careers in politics to citizen legislators, there is no chance that we will get meaningful reform.

Senator Boren is right: we are gathering momentum. Term limits have overwhelming popular support. It is without question the Number 1 reform the people want enacted. Last year 14 states passed term limit initiatives by an average victory margin of 2 to 1. Term limits received a higher percentage of votes in each of the 14 states than did President Clinton. Votes for term limits in these 14 states were more than Ross Perot's votes in all 50 states. Polls continue to show between 75 and 80% support nationwide for term limits.

Yet, Congress has refused to hold hearings, refused to debate the issue, and avoided a direct vote on the issue. This Committee which holds so much promise has chosen to get 88% of its testimony from current and former members of Congress, and almost all the rest from Beltway insiders. The American people have spoken loud and clear on term limits, and yet, this body has not only refused to act, Congress has refused to even listen.

Until this Committee and this Congress becomes committed to listening to the American people, and that means support for term limits, there will be no real reform, the American people will not be fooled, and this Committee's work will be a joke.



National Strategy for Congressional Term Limits

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The national strategy to limit congressional terms centers on activity in each of the 50 states. State campaigns have successfully passed 15 laws mandating term limits on their congressional delegations. Absent congressional action, state leaders will continue to pass state-mandated term limit initiatives on their delegations. Activity at the national level is designed to assist these efforts and also to press the Congress to present the American people with a term limit constitutional amendment of six years in the House and 12 in the Senate -- the Amendment for a Citizen Congress.

Citizens in California, Colorado and Oklahoma began the fight for term limits in 1990. California and Oklahoma approved state legislative term limits, while Colorado voters passed state and federal legislative term limits.

These initial successes gave rise to a groundswell of activity across the country, as activists in dozens of states either began efforts to put term limit initiatives on their state's ballot or began lobbying their state legislature to pass term limit legislation.

Twenty-three states allow citizens to place initiatives on the ballot. In 1992, 14 of those states not only put term limits on their ballots, but also approved them with an average of 66 percent of the vote. Nearly 22 million people, more than voted for Ross Perot in all 50 states, spoke out in favor of the idea. Term limits received a greater percentage of the vote in all 14 states than any of the presidential candidates. A total of 186 members of Congress -- 34.7 percent -- now serve under term limits, including the Speaker of the House, the House Majority Leader and the Majority Whip.

Activity has begun in the nine remaining initiative states to place term limit initiatives on the ballot. Their success would limit the terms of an additional 47 members of Congress, bringing the total to 233, or 44 percent.

Along with these successful initiative campaigns, U.S. Term Limits works with all 50 state term limit organizations in a joint candidate pledge program. During the 1992 campaign season, candidates for state and federal legislative office were asked to sign the Term Limit Pledge, binding them to support term limit legislation and the initiative campaigns. Three hundred eighty-seven congressional candidates and 566 state legislative candidates signed the Term Limit Pledge. Sixty-three Term Limit Pledge signers are now members of the 103rd Congress.

The combination of successful initiative campaigns, a growing list of incumbent term limit supporters and Term Limit Pledge signers and increasing pressure from citizen-based lobbying and grassroots activities will force state legislators to address term limits in 1993. Since the 14 state sweep in November, 1992, there has been a flurry of activity among state legislators to introduce congressional term limit legislation.

U.S. Term Limits is working closely with in-state citizen groups, legislative supporters, and our national coalition partners -- the Committee for a Citizen Congress -- to make sure that term limits not only remain a priority for legislators, but appear on as many state ballots as possible in 1994.

In Congress, U.S. Term Limits is working with term limit supporters on a constitutional amendment mandating limited terms, the Amendment for a Citizen Congress. Polls show that the people overwhelmingly support limits of three terms or less for the House of Representatives. U.S. Term Limits is working closely with its congressional allies on an amendment limiting House members to three two-year terms and Senators to two six-year terms.

Shorter term limits will eliminate the entrenched seniority system that rewards longevity over ability. The first 15 states to enact term limits have already dealt a blow to the seniority system. This will accelerate as additional initiative states pass term limit measures and as the citizen lobbying efforts in the non-initiative states bring about a state legislative vote for congressional term limits. These binding state term limit laws will also force Congress to a vote; as the number of congressmen serving under a state-mandated term limit grows, we will have secured the necessary votes for passage of a constitutional amendment to be ratified by 38 states.

The people made it clear on November 3, 1992 that they want term limits. The momentum from their mandate will carry over in to the coming battles as we work to reinvigorate government and democracy by restoring the Founding Fathers' idea and practice of a citizen legislature.

U.S. Term Limits is a non-profit, non-partisan organization dedicated to rallying Americans to limit congressional, state and local terms.

March 1993



June 3, 1993

CONFIDENTIAL

TO: U.S. TERM LIMITS

FROM: FABRIZIO, McLAUGHLIN & ASSOCIATES

**RE: NATIONAL SURVEY FINDINGS - TERM LIMITS AND
CAMPAIGN FINANCE REFORM RESULTS**

What follow are the methodology statement, survey findings, analysis and key demographics from our most recent national survey.

METHODOLOGY STATEMENT

This survey of public attitudes was conducted nationally among U.S. adults (Age 18+) between May 20 and May 23, 1993 by Fabrizio, McLaughlin & Associates. All interviews were conducted via telephone by professionally trained interviewers. Interview selection was random within predetermined geographic units. These units were structured to statistically correlate with actual population distributions. This survey of 1,000 adults has an accuracy of +/- 3.1% at the 95% confidence interval.

SURVEY FINDINGS

"Do you favor or oppose limiting the number of terms Senators and Congressmen can serve?"

	<u>Total</u>	<u>Democrats</u>	<u>Republicans</u>	<u>Independent</u>
Favor	75.6%	74.9%	79.0%	75.6%
Oppose	18.6%	19.8%	15.7%	19.9%
DK/Refused	5.8%	5.3%	5.2%	4.4%

Memorandum for U.S Term Limits
 Page Two
 June 3, 1993

"If limitations were passed on the number of terms a Congressman could serve, do you think the maximum should be:

	<u>Total</u>	<u>Democrats</u>	<u>Republicans</u>	<u>Independent</u>
Two terms, which is four years	40.7%	42.2%	33.6%	45.3%
Three terms, which is six years	21.8%	23.5%	24.5%	18.0%
Four terms, which is 8 years	20.9%	18.2%	26.6%	19.6%
Six terms, which is 12 years	9.7%	8.1%	11.2%	11.1%
Don't support term limits	4.6%	5.3%	2.4%	4.4%
DK/Refused	2.3%	2.8%	1.7%	1.6%

"From what you've read or heard, do you favor or oppose the Campaign Finance Reform legislation that is currently pending in Congress?"

	<u>Total</u>	<u>Democrats</u>	<u>Republicans</u>	<u>Independent</u>
Favor	37.4%	38.5%	32.5%	43.0%
Oppose	18.5%	17.6%	18.2%	19.9%
Unsure/Need More Info.	43.7%	43.6%	48.6%	36.7%
Refused	0.4%	0.3%	0.7%	0.3%

"Would you favor or oppose Campaign Finance Reform legislation that includes a provision for taxpayer financing of congressional campaigns?"

	<u>Total</u>	<u>Democrats</u>	<u>Republicans</u>	<u>Independent</u>
Favor	31.9%	35.2%	24.8%	35.8%
Oppose	46.8%	40.2%	54.9%	48.7%
DK/Refused	21.3%	24.6%	20.3%	15.5%

Memorandum for U.S Term Limits
 Page Three
 June 3, 1993

"Would you favor or oppose Campaign Finance Reform legislation that includes a provision to limit the number of terms Senators and Congressmen can serve?"

	<u>Total</u>	<u>Democrats</u>	<u>Republicans</u>	<u>Independent</u>
Favor	69.9%	67.9%	71.0%	74.1%
Oppose	17.2%	18.7%	16.8%	16.1%
DK/Refused	12.9%	13.4%	12.2%	9.8%

ANALYSIS

The public overwhelmingly supports term limits of some kind for Senators and Congressmen by a three to one margin. This ratio is fairly constant across party lines with Democrats and Independents being nearly equal and Republicans leaning only slightly more in favor of limits.

Differences appear when asked what the maximum number of terms should be for Congressmen. Overall, almost 63% of the public think the limit should be three terms or less. Surprisingly, Democrats lead the way with almost 66% responding to limit terms to three or less compared to Republicans at just over 58%.

Regarding the Campaign Finance Reform legislation, while the majority of the public is "Unsure" and want more information, those that are familiar with the proposal favor it by a two to one margin. Again, this ratio is fairly constant across party lines with Republicans being slightly more "Unsure" and Independents being noticeably more in favor of the legislation.

As people become more aware of the contents of the proposal, their opinions shift accordingly. Adding the provision for taxpayer financing of campaigns makes all groups oppose the legislation. Republicans display vehement opposition with a margin of more than two to one against.

Adding a term limit provision to the Campaign Finance Reform proposal moves respondents heavily into the "Favor" category with an overall response of 69.9%, or nearly 70%. These figures remain fairly constant across party lines reiterating the public's desire for term limits.

Memorandum for U.S Term Limits
 Page Four
 June 3, 1993

From reviewing the data, it is our opinion that the voting public is primed for imposing term limits. It is clear that any serious attempt at Campaign Finance Reform legislation should include a term limitation provision.

KEY DEMOGRAPHICS

Marital Status

Married	59.5%
Single, never married	19.6%
Divorced	7.3%
Separated	3.2%
Widowed	8.2%
Refused	1.8%

Education

Less than high school	9.8%
High school graduate	31.8%
Some college	25.2%
College graduate	22.4%
Post graduate	8.5%
D.K./Refused	2.3%

Annual Household Income

Under \$20,000	18.9%
\$20,001 to \$40,000	31.3%
\$40,001 to \$60,000	18.5%
\$60,001 to \$75,000	8.2%
Over \$75,000	6.9%
Refused	16.2%

Memorandum for U.S Term Limits
 Page Five
 June 3, 1993

Religion

Protestant	51.2%
Catholic	27.9%
Jewish	3.0%
Mormon	2.7%
Atheist/Agnostic	4.7%
Other	2.4%
Refused	8.1%

Race

White	78.2%
African-American	9.9%
Hispanic	5.9%
Asiatic	2.4%
Other	1.1%
Refused	2.5%

Political Affiliation

Democrat	35.8%
Republican	28.6%
Independent	31.6%
Other	1.2%
Not registered/Don't vote	1.0%
Refused	1.8%

Age

18 to 25	14.6%
26 to 40	29.6%
41 to 55	23.8%
56 to 65	11.5%
Over 65	16.6%
Refused	3.9%

Memorandum for U.S Term Limits

Page Six

June 3, 1993

Region

New England	6.1%
Middle Atlantic	14.6%
East North Central	18.3%
West North Central	8.4%
South Atlantic	16.3%
East South Central	5.8%
West South Central	9.7%
Mountain	5.8%
Pacific	15.0%

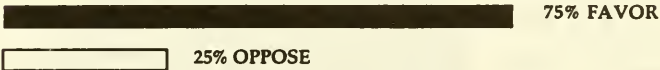


Opinion Polls on Term Limits

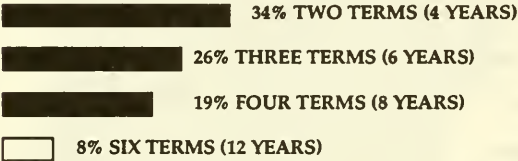
National Taxpayers Union Foundation

The National Taxpayers Union Foundation recently commissioned a poll on Americans' responses to a number of political reform issues. The results show that citizens strongly favor strict term limits.

QUESTION: "Would you favor a constitutional amendment that would limit the number of terms a member of Congress could serve?"



QUESTION: "If limitations were passed on the number of terms a member of the U.S. House of Representatives could serve, do you think the maximum number of terms should be:"

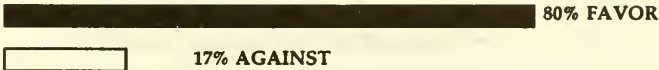


Published in Capital IDEAS, Volume 1, Number 1; September/October 1992

Wall Street Journal/NBC News

Public dissatisfaction with the status quo was measured recently by a Wall Street Journal/NBC poll showing Americans strongly favor a limit on congressional terms.

QUESTION: Do you favor a limit on congressional terms?



Published in the Wall Street Journal, April 17, 1992.

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TERM LIMIT 1992 BALLOT RESULTS

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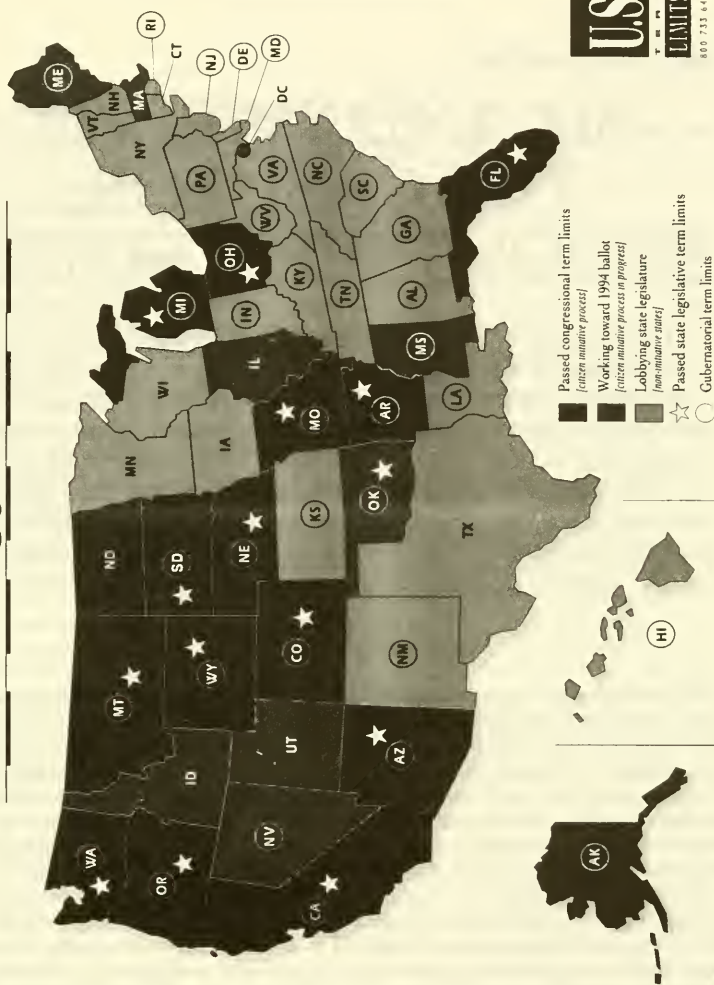
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<u>State</u>	<u>Yes</u>	<u>Votes</u>	<u>No</u>	<u>Votes</u>
Arizona	74%	1,026,830	26%	356,799
Arkansas	60%	494,326	40%	330,836
California	63%	6,578,637	37%	3,769,511
Colorado*	71%	652,322	29%	269,831
Florida	77%	3,625,500	23%	1,097,127
Michigan	59%	2,323,171	41%	1,629,368
Missouri	74%	1,590,552	26%	558,299
Montana	67%	264,174	33%	130,695
Nebraska	68%	481,048	32%	224,114
N. Dakota	55%	162,150	45%	129,930
Ohio	66%	2,897,054	34%	1,476,436
Oregon	69%	1,003,706	31%	439,694
S. Dakota	63%	205,074	37%	117,702
Washington	52%	1,119,985	48%	1,018,260
Wyoming	77%	150,113	23%	44,424
Average/Total:	66%	22,574,642	34%	11,593,026

- *Term Limits received more votes in the 14 initiative states than presidential candidate Ross Perot received nationwide.*
- *Term Limits received a greater percentage of the vote in each of the 14 initiative states than did President Clinton.*

*Colorado passed Amendment 5 in 1990.

TERM LIMITS 50 STATE ACTIVITY



TERM LIMITS CROSSFIRE

SIX AND TWELVE: THE CASE FOR SERIOUS TERM LIMITS

The Framers of the American system of government had confidence in the judgment of the average citizen, and the concept of a citizen legislature — many would argue — is something they would have taken for granted. Under current conditions, legislators in Congress and the state houses can expect to spend 10 to 20 years in office before exercising meaningful influence. Are individuals capable of playing this waiting game patiently the kind of policy makers we need in a period of domestic and international crisis?

EDWARD H. CRANE

By far the most important development of the 1990 General Election was the clear support Americans demonstrated for placing limitations on the amount of time their fellow citizens should be allowed to represent them in legislatures. Perhaps this should not seem remarkable, given the fact that a majority of states already place term limits on governors, but 1990 marked the first time we have decided that legislatures would work better if they were populated by something other than career politicians.

In Oklahoma, where the vote took place a little earlier in the year, and in Colorado, an overwhelming two-thirds

of the voters decided term limits was an idea whose time had come. In California, the nation's most populous state, Proposition 130, favored by more than 70 percent of the electorate in polls, managed to survive embraces by George Bush and Dan Quayle which turned a nonpartisan issue into a partisan one. Prop. 130, of course, passed by a narrow majority, but did so in an environment in which the two dozen or so state-wide initiatives on the ballot in California received less support than the polls predicted, due apparently to voters who entered the booth to vote "no" on everything, in protest of the micromangement of gov-

ernment-by-initiative. It was the only significant initiative to pass in California in 1990. Among those defeated was Prop. 131, which would have limited state legislative terms to 12 years. Prop. 140, by placing six-year limits on lower house legislators was the most radical legislative term limit measure thus far to be voted on, and it won.

It seems clear that voters want legislative term limits, but the victory in California of the shorter limit over the longer limit is tainted by the fact that the losing proposition would have created public financing of campaigns, a measure opposed by voters, according to polls. The term-limit plan approved in Oklahoma provides for a 12-year total (senate and assembly), and polls indicated that voters would have preferred an even shorter limit. In Colorado, the state legislative limit is now eight years and the state's Congressional delegation is limited to twelve years, but it is not at all clear that shorter terms for both groups would not have been approved by healthy majorities.

The results of the recent elections do not tell us much about voter preference for the length of term limits, perhaps because the debate over term limitation is still in its infancy. Voters

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. . . THE DEBATE
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know they want it, but they have not yet decided *how* they want it.

Making a Case for Term Limits

Many reasons for limiting Congressional terms have been offered.

Thus far, the two most common are that we presently have 1) an imperial Congress, the result of uncompetitive elections, impervious to the wishes of the average American, and 2) legislative committee chairs who have been in office 20 or 30 or more years, and who have in that period of time garnered a huge amount of political power that more often than not is abused.

Both arguments are valid, and a 12-year term limit would address both problems—somewhat marginally in the first case, but particularly well with regard to the accumulation of power. The best reasons for limiting terms, however, extend beyond simple recognition that lifetime tenure in Congress is a problem. What we need to do is replace the imperial Congress with a citizen legislature. A three-term limit in the House—which should be more populist than the Senate—can bring that about much more effectively than a six-term limit. Conversely, limiting the Senate to two terms, ensures that it does not get too deliberative.

TERM LIMITS CROSSFIRE

The concept of a citizen legislature is something the Founders of this nation would have taken for granted. The idea of a professional politician or a career legislator would have appalled them. It is, of course, easy to invoke the memory of the Founders in support of almost any position, but there are those on the far left who claim that the Founders were elite property owners who had nothing but disdain for the masses. Merely a cursory look at the writings of the works of Thomas Jefferson, Samuel Adams, George Mason, and Thomas Paine, however, will reveal that the Framers had a healthy respect for the good common sense of the

average citizen. Paine's little tract called *Common Sense* was read by virtually every literate person in the colonies, and heard by many who could not read at frequent readings in taverns and public squares. The Founders had confidence in the good judgment of the average person. The Constitutional restrictions they placed on pure democracy and the balance of powers they incorporated into our government reflected not a concern over the judgment of their fellow citizens, but over the pernicious effects of what they referred to as "interests," and what we generally call "special interests." As Jefferson put it, "The natural progress of things is for liberty to yield and for government to gain ground."

The Cato Institute is named for

Cato's Letters, revolutionary era pamphlets written by a pair of Englishmen, John Trenchard and Thomas Gordon, who were sympathetic to the plight of the colonies and favored individual liberty and opposed imperialism. Addressing term limitations — which they called "rotation in magistracy" — they wrote:

Men, when they first enter into magistracy, have often their former condition before their eyes: They remember what they themselves suffered with their fellow subjects from the abuse of power, and how much they blamed it; so their first purposes are to be humble, modest and just;

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and probably, for some time, they continue so. But the possession of power soon alters and vitiates their hearts, which are at the same time sure to have leavened and puffed up to an unnatural size, by the deceitful incense of false friends and by the prostrate submission of parasites. First they grow indifferent to all their good designs, then drop

them. Next, they lose their moderation. Afterwards, they renounce all measures with their old acquaintance and old principles, and seeing themselves in magnifying glasses, grow in conceit, a different species from their fellow subjects. And so, by too sudden degrees become insolent, rapacious and tyrannical, ready to catch

all means, often the vilest and most oppressive, to raise their fortunes as high as imaginary greatness. So that the only way to put them in mind of their former condition, and consequently of the condition of other people, is often to reduce them to it, and to let others of equal capacities share the power in their turn. This also is the only way to qualify men, and make them equally fit for dominion and subjection. A rotation therefore, in power and magistracy, is essentially necessary to a free government.

Cato's Letters, it should be noted, are said to have played an important role in influencing the political philosophy of the Founders. Term limitations, or rotation in office, was considered a self-evident virtue by those who created this nation.

A representative legislature was considered by the Founders to be one of the principle means by which the essence of a free society, namely the rights to life, liberty and property, was to be preserved. But along the way, the representative nature of Congress has been severely compromised.

To begin with, there is a question of *who* decides to run for office. Under present conditions one can expect to spend 10 to 20 years in the legislature before having any real influence.

Indeed, those who do voluntarily drop out relatively early have generally simply proven less adept at the various intrigues required to gain such influence. And this addresses the point of those who think we already have a high enough turnover rate in our legislatures. The ones who stay are usually the ones who should go. That is, those who run for Congress these days are generally those who find the prospect of spending a significant portion of their lives as a politician to be an attractive option. These are generally the kind of individuals we should *not* have passing laws governing the rest of us.

Conversely, those who find the prospect of spending a long period of time in Congress — that is, long enough to have serious influence — off-putting, are precisely the kind of individuals we *do* want in our legislatures. Under present conditions, then, the preselection process among those who chose to run for Congress and our state legislatures is

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skewed in a non-representative and unfavorable manner. Moreover, legislators who oppose term limitation are their own worst enemies, particularly those who have studied public administration and claim to have had no other ambition but to have been a legislator. These are not the kind of people we want making decisions regarding the lives of the rest of us, who are more inclined to simply live

TERM LIMITS CROSSFIRE

and let live.

The Value of "Experience"

One of the first objections raised to the argument for strict term limitation — for a citizen legislature — is that we will lose the valued services of "experienced legislators." This is a prospect for which we might legitimately hope, given recent legislative experience. To highlight only two from a rich portfolio of examples, it was our "experienced legislators" who gave us the half-trillion dollar savings and loan debacle by telling investors to go ahead and crapshoot with high-interest thrifts because if their investments were lucrative they would win, and if they were not, the American taxpayers would bail them out. Can we imagine any group of randomly selected nurses, carpenters, businessmen, teachers, etc. who could possibly be so naive, stupid, and/or dishonest to create the kind of half-trillion dollar disaster that our permanent — "experienced" — incumbents have? It takes years of experience inside the Beltway to get so divorced from reality to believe that free, universal deposit insurance is a good idea.

Also illustrating the value of vast legislative experience is the most recent round of excruciating federal budget negotiations. We witnessed a circus that was living proof of a special interest controlled Congress, orchestrated by the most experienced of our experienced

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AND INSIDE
EVERY STATE
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TO ALBANY.**

legislators. After decades of budgets that were, to paraphrase Tom Wolfe, hemorrhaging red ink, our courageous Solons ended up devising a fiscal program that has set the rate of spending increase on a course that over the next five years will actually exceed the rate of growth of the past five years. Voters seeking adequate justification to limit Congressional and other legislative terms need look no farther than the recent budget negotia-

tions.

If the need for experience in the legislature is not a valid argument against term limitation in general, it certainly should not be an argument in favor of a 12-year limit in the House of Representatives over a six-year limitation. Those proponents of term limitation who argue that 12 years will allow legislators to develop "experience" are simply missing the point.

The Sociology of the "Ruling Class"

The second and overwhelmingly important reason for limiting terms in the House to no more than six years has to do with the "culture of ruling." The culture of ruling is something found inside the Beltway and inside every state capitol from Sacramento to Albany. Put very simply, no matter how noble one's intentions, it is impossible not to be influenced by the sociological environment in which a legislator invariably finds himself.

Inside the Beltway a member of Congress lives in a social environment in which a very high percentage of the people with whom he or she associates are involved in the business of regulating other people's lives or spending other people's money. Moreover, a member of Congress is subject to the very unnatural phenomenon of having a microphone shoved in his face in solicitation of his opinion on virtually any subject imaginable. It is only human nature, under such circumstances, to start believing that one's opinion is more important than perhaps it really is. Worse, after a while, there is a tendency among legislators to start believing that they need to codify their opinions on the myriad of issues that enter the public consciousness. That, combined with the natural tendency of legislators to develop ever more complex webs of back scratching and logrolling arrangements with their colleagues, explains why such groups as the National Taxpayers Union and Citizens for a Sound Economy find that the longer someone has been in Congress or a state legislature, the more likely he is to vote for or initiate more governmental involvement in the private sector, regardless of the philosophical background he brought to the task of legislator.

The culture of ruling has an insidi-

ous and corrupting influence on the best of people. Not corruption in the conventional and most obvious sense — such as the Keating Five affair — but the compromise of personal principles and experiences in order just to get along in Washington and the state capitols, much less to get ahead.

The less time a member of Congress spends in Washington, D.C. the less chance there is for that insidious process of corruption to occur — the less chance that common sense will be replaced by inside-the-Beltway conventional wisdom.

In order for the concept of a citizen legislature to have meaning, it is imperative that those serving in the legislature literally view their time in office as a leave of absence from their real jobs or careers. This is the key to a successful citizen legislature. The incentives facing a legislator should never involve a concern over what other legislators might do in retaliation, or what special interests might do to one's long-term *political* career. Here the difference between four years and twelve years becomes significant. The special interests, whom opponents of term limitation claim will benefit from its

adoption, are in fact vehemently *opposed* to limits, precisely because they have a major investment in long-term incum-

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TERM LIMITS CROSSFIRE

bents. It would be very costly — and probably not very effective — to try to establish an “understanding” with hundreds of new legislators every few years.

For the House of Representatives, 12 years is more than double six years with regard to re-election incentives. That is, the six-year limit provides for just two re-election campaigns, and the 12-year limit offers five such opportunities.

More importantly, 12 years, particularly in this day and age, is a very substantial period of time to remain in a single job. A 40 year-old freshman member of Congress who concludes his tenure in the legislature at age 52 would likely look back on his life upon his retirement and consider his years in Congress as the primary occupation of his life.

Returning to the Ideal of Public Service

A citizen legislature should consist of individuals who are concerned about what is good for society, not what benefits their political careers, which more often than not involves going along with the special interests that are so ready to use and abuse the power of government. Twelve-year term limits allow time for many of the abuses those of us who support term limits are concerned about in the first place. Six years as the upper

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limit in the House means the legislator is more likely to do right, even if that means offending the special interests that can otherwise play such a dominant role in a legislator's career. Indeed, with a six-year limit, it is very likely that some people would serve only one term and then go home. The less time they spend in the Beltway or in the state capitols — the less time they spend in the “culture of ruling” —

the more firmly rooted in reality will be their perspective on the world.

Two, four or six years is a leave of absence. Twelve years is a career. The figure of twelve years originally emerged as one that Congress would find generous enough to impose upon itself without excessive outside pressure. Clearly, this is not going to be the case and legislators are otherwise unlikely to accept term limits voluntarily.

Conclusion

Congress is out of control. With a few limited exceptions it is populated by individuals who assume they have a right to lifetime tenure in a job with enormous power over their fellow citizens.

A three-term limit for the House and state assemblies and a two-term limit for the federal and state senates is an effective means for the American people to

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regain control of their government. Such limits will restore respectability to the term "politician." Limits will restore respectability to the institution of Congress itself. Strict limits will create a citizen legislature, and citizens know they will. If we are to build momentum for the term-limitation movement in the United States, we need to adopt limits that have teeth, that reflect confidence in the rationale for term limits, and about which

WE NEED TO ADOPT LIMITS THAT HAVE TEETH . . .

the American people can get excited. Twelve years in the House is boring. It is not worth the effort. If we are to undertake the effort to limit legislative terms in America, let's really limit them. Six years maximum in the House. Twelve years maximum in the Senate. That's the ticket to a government of the people, by the people, and for the people.

C^N_R

Edward H. Crane is President of the Washington, D.C.-based Cato Institute. This article is adapted from his remarks to a conference of Citizens for Congressional Reform, December 13, 1990, San Jose, California.

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VOY. 15, NO. 107

Congressional Reforms Won't Stifle Call for Term Limits

By Norman Leachy

THE glowing success of term limits, Ross Perot, and the death of gridlock now leave Congress with no alternative but to pass a campaign reform package. That doesn't mean lawmakers have changed their stripes: Congress will not pass any real reform package now or anytime soon. The public knows this. That is why voters are fighting back with term limits.

Sen. David Boren (D) of Oklahoma, the main advocate of campaign reform in the Senate, said, "Unless we pass campaign finance, lobbying, and congressional reform, I think the term-limit movement will gather steam and become unstoppable. The status quo is not an option. If we don't deal with these matters, people will do so with term limits."

Senator Boren's colleagues are uncomfortable with such comparisons, but they know they have to look busy on reform, and campaign finance is the easiest way for them to do so.

Even if Congress passes some type of campaign reform bill, it won't address the fundamental problem of the institution, namely, that it has become careerist. Lawmakers are obsessed with reelection, to the detriment of political courage and public policy. That is why so many people are turning to term limits as the best first step to better government.

And that is why term limits are the reform incumbents love to hate. Congress is afraid to even debate the issue: It will only look bad trying to press forward its reform packages in the face of the people's chosen reform.

Boren and his allies have enough difficulty when it comes to changing the way incumbents raise and spend money, let alone passing a reform bill that will divert the people from term limits. Since 1979, when the last changes in the current campaign laws were made, congressional Democrats have had the luxury of operating under divided government. This allowed them to propose increasingly outlandish campaign reform bills — some calling for as much as 90 percent public financing — and to pass mediocre bills like the one vetoed last year by President Bush.

MEANWHILE, President Clinton, realizing that he can't sell voters an incumbent protection plan, is expected to propose this week a bill that contains cosmetic spending and donation limits. Some Capitol Hill staff members close to the campaign finance bill say that Mr. Clinton's bill is "a sop to Common Cause," and that the president is "more interested in having his campaign promises covered in the first 100 days than he is in a real reform package."

Moreover, the House is still obsessed with the idea that if it passes a reform bill, some lawmakers could lose their seats in the next election — certainly an incentive for short-sighted, PAC-addicted members to stall for time.

Even the provisions of H.R.3, which would give up to

\$200,000 in taxpayer subsidies to House candidates, make incumbents nervous. Rep. Robert Torricelli (D) of New Jersey told the New York Times: "Simply capping expenditures will stifle the discussion of issues." Rep. Vic Fazio (D) of California, who as the head of the Democratic congressional campaign organization must raise the millions of dollars Democrats need to run their races, told the Wall Street Journal: "It's not something people are demanding tomorrow like jobs.... If we have to err on the side of taking more time, we ought to."

The voters may not give them much time. The perennially vocal presence of Mr. Perot and the fact that voters in 15 states have passed term-limit laws that now cover more than one-third of the members of Congress put pressure on politicians to pass some sort of reform bill, even one that protects the status quo as much as H.R.3.

These are not serious reform proposals: They are a smoke screen intended to make everyone think things have been changed, when in fact they have simply solidified the status quo. Any real change in congressional campaign practices, like term limits, would severely weaken the hold incumbents have on their seats. For many of them, such a thought is unconscionable.

So while the Senate begins to try and staunch the impending term-limit flood, the rest of Congress will go quietly about the business of running for reelection, ignoring that the people would rather have — and are working toward — term limits for every one of them.

■ *Norman Leachy is research director of the US Term Limits Foundation.*

REVIEW & OUTLOOK

Wall Street Journal

April 28, 1993

Real Change

Bill Clinton could use a big public success about now. There are rumblings through the political world that he may decide to bomb the Serbians. The merits of that aside, we have a more popular idea: Bomb Congress.

But he won't. Not at this point of low-ebb. That's too bad, because two ideas—term limits and the line item veto—would directly attack gridlock and spending. Both strategies are popular with the public and merely await leadership from a national figure who stands for change.

Instead, Mr. Clinton this week will propose a campaign finance reform plan that would use tax dollars to finance congressional elections. Bowing to pressure from House Democrats he has abandoned plans to sharply rein in PAC money, 90% of which flows to congressional incumbents and virtually ensures their re-election. From what we've seen, it's a reform that is by the incumbents, for the incumbents and benefits only incumbents.

Polls suggest that the public is suspicious that incumbents will turn public-funding to their own advantage. But people overwhelmingly support one reform that politicians shrink from the way Dracula recoiled from the cross: term limits. Until now, only a theoretical case could be made for abhorring term limits movement. But now there's real-world evidence that term limits are bringing new blood into politics.

Californians voted in strict term limits for their Legislature in 1990. The first Members forced into retirement don't leave until late 1996, but term limits and a rational redistricting map prompted more than a fourth of the state Assembly to retire in 1992. The resulting competitive free-for-all meant that 26 out of 80 Assembly districts elected new Members. They are different in many ways from the people they replaced, and the change is in large part due to term limits.

An analysis of the new Members by Charles Price of Chico State University shows that the profusion of open seats allowed women and minorities a chance at power. Almost half the new Members are women and more than a fifth are Hispanic. Voters elected the first Asian-American in 12 years, a Republican. In addition, only two of the 26 new Members are former legislative staffers. Democrat Valerie Brown told the California Journal: "Virtually none of the new Members came out of state government. They mainly come from local government, local business or community service."

Many of the new Members are true

citizen politicians and welcome the fact that they'll have only six years to make their mark in office. Republican Kathleen Honeycutt says new Members have no time for delay. She notes the freshmen come "on time for meetings. If some of these veterans were in the business world they would have been fired long ago for showing up late so often." Democrat Louis Caldera says that he understands average voters better because "I've been in the 'real world' more recently than the veterans have."

If Bill Clinton wants to see how term limits can shake up a complacent legislature, he need look no further than his native Arkansas. Last year, 60% of Arkansas voters backed term limits. Last month, pressure from freshmen members led to the election of a new Speaker and the removal of four veteran Members from key committees. "Term limits has forced us into a more 'get with it' mode," says Rep. Ernest Cunningham. New members were forced to challenge the archaic seniority system to have any hope of making their mark before term limits kick in.

Term limits are also having a salutary effect at the local level. In Texas, the San Antonio Express-News editorialized against term limits for the City Council in 1991, just before they won 65% approval. Now W. Lawrence Walker, the paper's publisher, says he's changed his mind and thinks term limits are a good idea. "We have a better and more diverse council with the old wood cleared away," he told us. "They quickly resolved a water system problem the old council had delayed for years."

Despite such real-world evidence, politicians continue to strain to squash term limits. In Texas, the state Legislature stonewalled term limit advocates this month. The U.S. Senate has brazenly voted to have its taxpayer-funded legal counsel represent Senator Dale Bumpers in a suit to overturn Arkansas's term limit. Griffin Bell, President Carter's Attorney General and now the lead attorney defending term limit laws, says "it's an outrage" that taxpayer funds are now routinely used to thwart the will of the people.

Again, why doesn't Bill Clinton get out in front of this movement? He might even discover unsuspected support for a public-funding mechanism for campaigns if he joined that idea with limits on terms for the winners. Add the line item veto to the Clinton agenda (discussed below) and you'd have the beginnings of a presidency dedicated to real change.

ROLL



CALL

THE NEWSPAPER OF CAPITOL HILL

With Term-Limiters' Support, Inglis Offers Measure to Restrict Hill Tenure to Six Years

By Susan B. Glasser

Leaders in the national term-limit movement joined forces yesterday to support for the first time a constitutional amendment that would restrict House Members to six years' service and Senators to 12 years, backing a measure introduced by freshman Rep. Bob Inglis (R-SC).

While dozens of constitutional amendments seeking term limits have been introduced over the years (including 15 in the House so far this Congress), they have never won uniform backing from the term-limit activists, who have successfully won passage of 15 state Congressional term limits since 1990.

None of these limits has yet restricted the tenure of a Member of Congress, and the constitutionality of state-imposed limits on federal office holders has not been tested.

Many experts believe that only an amendment to the U.S. Constitution will restrict the length of time a Member may serve.

Many of the amendments that have been offered in the past, including a measure introduced by long-time term-limits backer Rep. Bill McCollum (R-Fla.), aren't nearly as restrictive as the one introduced by Inglis. McCollum's constitutional amendment, for instance, puts the time frame at 12 years for both House Members and Senators.

"The Amendment for a Citizen Congress," as supporters are calling it, "marks

The constitutional amendment marks the first time that what is happening in Congress on term limits is connected to the activity all over the country on this issue.'

the first time that what is happening in Congress on term limits is connected to the activity all over the country on this issue," claimed Paul Jacob, director of US Term Limits.

US Term Limits is one of three major national term-limit groups, all of which are supporting the Inglis measure. State leaders of the campaigns that led to the state term-limit initiatives are also backing the freshman's measure, as are groups like Citizens Against Government Waste and the National Taxpayers Union.

Not all of the states that have imposed term limits on their Congressional delegations have opted for the six- and 12-year limits of the Inglis amendment. Colorado, which started the trend in 1990, passed 12-year limits in both chambers. Of the 14 states that passed the measures last year, nine were for six years in the House, four were for eight years, and one was for 12 years. All 14 states chose 12-year limits for the Senate.

In an interview, Jacob said the term-limit movement's shift to support for three two-year terms in the House came because "all the polling we've done or seen has shown us that's what the consensus of the American people is." A poll commissioned by the National Taxpayers Union, Jacob said, showed that 60 percent supported term limits of six years or less on House Members, but only 8 percent supported 12-year limits for the House.

to affect individual Members until at least six years from now.

While term-limit supporters may be united around a constitutional amendment, they have little hope of seeing the measure pass the 103rd Congress; they will continue to focus on efforts to add states to the roster of those that have voted for term limits.

Eventually, term-limit backers say, they will have elected enough Members of Congress in favor of term limits to seek — and win — a vote on Inglis's constitutional amendment. For now, however, they count just 63 Members of Congress as supporters.

Nicole DeVito contributed to this report.

from nine other House Members — just one of them, freshman Rep. James Barcha (D-Mich), a Democrat.

In fact, Inglis said, "I had hoped to introduce this bill a little earlier, but we decided to hold up until we could find a Democratic co-sponsor, and now we have one."

Other co-sponsors include GOP Reps. Dick Army (Texas), the Republican Conference Chairman; Chris Cox (Calif); Phil Crane (Ill); Jack Fields (Texas); Porter Goss (Fla); Mel Hancock (Mo); Tim Hutchinson (Ark); and Nick Smith (Mich).

After last year's elections, some 36 percent of the Congress is now subject to term limits, but those laws won't actually begin

Some 192 Members now in the House have already served six years. And 132 have already served 12 years.

In a press conference yesterday, Jacob said: "The difference between six-year and 12-year limits is a crucial one because our goal is not to simply break up the leadership of Congress, which a 12-year limit might accomplish. We believe a more fundamental reform is needed. We want limits that create a citizen Congress."

Inglis, a surprise victor last fall over Rep. Liz Patterson (D-SC), had headed the South Carolina chapter of Americans to Limit Congressional Terms. He introduced his amendment yesterday with backing

Washington Post
February 13, 1993

Ronald D. Rotunda

No Impediment To Term Limits

Are term limits constitutional as applied to U.S. senators and representatives? This question takes on added meaning because the voters in 14 states voted in November, by wide margins, to impose federal term limits on their members of Congress. Supporters of term limits include Democrats such as Jerry Brown and Republicans such as George Bush. Opponents include (no surprise here) Capitol Hill staffers and most congressional incumbents, who are in bipartisan agreement that term limits are bad policy and unconstitutional.

Arguments favoring terms limits are easy enough for the average voter to understand, which may explain why they are commonly applied to state governors. Term restrictions encourage qualified candidates to seek public office by curbing the special advantage of incumbents, who can prolong their stays in office through patronage, pork-barrel projects, gerrymandering, name recognition and voter inertia.

Turnover in the House is usually less than turnover in the former Soviet Politburo. Of the 405 incumbents who ran in 1990, 20 percent had no major party opponents, and 60 percent had opponents who raised less than half the money the incumbents had. Common Cause, the citizens' lobby group, says that only 23 of the House races in 1990 were truly competitive.

Angry voters want politicians more concerned about people than their political careers, more concerned about

the next generation than the next election. A typical proposal limits House members to eight years in that office.

Some constitutional lawyers have entered the fray by arguing that term limits on legislators are unconstitutional. They base their argument on the language of one Supreme Court decision, *Powell v. McCormack* (1969), in which the court ruled that it was unconstitutional for the House of Representatives to refuse to seat Adam Clayton Powell (an outspoken black representative) even though he had met the constitutional requirements of age (over 25), citizenship (U.S.), and residency (New York).

From that brief reference, it is argued that Congress cannot add to these requirements. But the Powell case addressed a unique set of circumstances. As Justice Douglas carefully explained, the court would not have interfered if Congress had expelled Powell under a different clause of the Constitution.

People who argue that term limits are unconstitutional are not only reading an awful lot into one decision, but are rejecting 200 years of practice. Almost all states require that U.S. representatives be elected by district within the state, even though the Constitution only lists state residency as a qualification.

When some states decided to have their representatives elected at large, Congress in 1843 enacted a statute requiring states to impose a district qualification. On many occasions, the court has spoken in favor of the power of Congress to make and rearrange district lines.

If opponents of term limits really are serious in claiming that neither the states nor Congress can impose an extra restriction, then the Supreme Court is going to have to reject a lot of its own cases, and U.S. representatives are going to have to be elected in statewide elections.

There is another point that opponents of term limits often ignore. Voters think we need more competition in Washington. Even the former Soviet Union is copying our market-driven economy. It's our ability to compete that has made us the only world superpower. We should not be afraid to try more competition here at home—the competition of public office.

The writer is a professor of law at the University of Illinois.

*There was more
turnover in the
Politburo than there
is in the House.*

The Constitutional Case for Term Limits

Voters in 14 states yesterday had a unique opportunity to send a message of change. In addition to electing a president and members of Congress, they also decided whether to limit the terms their congressional representatives may serve.

While the results are not known at this writing, it's clear any successful term limit will face a legal challenge from incumbents loath to yield their seats. Indeed, House Speaker Tom Foley has said that he will carry the case against term limits to the Supreme Court. Term limits, he insists, are unconstitutional: "No, none, no legal case can be made for them."

We try to buffer. An excellent legal case can be made for the constitutional validity of term limits. The crucial constitutional point is that term limits are similar to other election regulations that courts have approved.

Rule of Law

By Neil Gorsuch and
Michael Guzman

Most of the term limit proposals on the ballot yesterday do nothing more than restrict a long-term incumbent's access to the ballot. Rather than flatly forbidding an incumbent who has served more than the allowed number of terms from running again, most simply deny him a spot on the printed ballot for a period of four years. During this period, an incumbent may wage a write-in candidacy and, of course, retain his seat if he wins. (Three current members of Congress—Rep. Ron Packard, Rep. Joe Skeen and Sen. Strom Thurmond—won their seats as write-ins.)

While forcing an incumbent to run a write-in campaign significantly hurts his chances for re-election, it does not deny him from running. Many ballot-access regulations have equally severe conse-

quences for aspiring candidates, and the courts have upheld them.

The Constitution gives states clear authority to impose ballot-access rules. Article I, Section 4 specifically empowers states to regulate the "manner" of congressional elections. States have consistently used this authority to enact comprehensive procedures for gaining access to the ballot. These state-enacted "manner regulations" have survived a variety of legal challenges.

In *Storer v. Brown* (1974), for example, the Supreme Court considered a California regulation denying ballot access to any independent candidate who had been a registered member of a political party within the past year. Although the rule effectively required two congressional candidates to wait a full year before they could obtain a spot on the ballot—much as a term limit would compel a long-term incumbent to wait two terms—the court easily approved it.

Likewise, a district court approved the Pennsylvania ballot-access law that forced Rep. Lawrence Williams to sit out a term. When Mr. Williams lost the Republican primary in May 1971, he tried to secure a place on the November ballot as an independent, but a state rule precluded any primary loser from the general election ballot. Mr. Williams fought the regulation in court without success.

The Supreme Court has consistently upheld manner regulations at least as severe as term limits. In *Davis v. Bandemer* (1982), the court approved virtually all state political gerrymandering schemes—no matter how hard an individual candidate, it did so despite the fact that state legislatures often draw wildly contorted district lines specifically to deny certain individuals any realistic hope of winning, and despite the fact that these lines often remain in place for 10 years or more until the next census and redistricting.

A rarely discussed constitutional detail

also gives courts little incentive to invalidate term limits. Although Article I authorizes states to regulate congressional elections, it also authorizes Congress to override any manner regulation by a simple majority vote. Why then, a court might wonder, should it protect incumbents from their constituents when incumbents have in hand the power to protect themselves? Opponents of term limits argue that term limits are not ballot-access regulations but qualifications for office.

This is an attempt to place term limits in a different legal category. The Constitution lists three qualifications for members of Congress: He must be of a requisite age, a U.S. citizen for an established period and an inhabitant of the state he represents. Opponents say term limits effectively add a fourth qualification: namely, that no

The crucial constitutional point is that term limits are similar to other election regulations that courts have approved.

candidate may be a long-term incumbent. If viewed as a qualification, a term limit would almost certainly be unconstitutional. The Supreme Court in *Powell v. McCormack* (1969) concluded that Congress may not add to the established qualifications. In that case, the House had refused to seat Adam Clayton Powell Jr. citing his alleged ethical inproprieties. The court, however, ordered the House to seat Powell, arguing that if Congress could set its own qualifications for membership it might use those powers to exclude duly elected representatives for any number of politically motivated reasons.

But the attempt to label term limits as "qualifications" overlooks the fact that the regulation at issue in *Powell* flatly banned

an elected representative from office. Term limits leave incumbents free to wage war in campaigns and to regain a ballot spot after a few years.

More important, the Supreme Court has already rejected the argument that state ballot-access regulations are really qualifications. In *Storer*, Justice Byron White dismissed that argument as "wholly without merit." Even Justice William Brennan's dissent in that case, which emphasized the "impossible burden" California had placed on independent candidates, never suggested that the ballot-access procedures at issue constituted qualifications.

Indeed, as both *Storer* and *Williams* show, judges have been reluctant to view ballot-access regulations as qualifications. They sense correctly that they would be stepping into a legal morass. There are a huge number of ballot-access rules, and a clever lawyer can argue that any of them creates some sort of qualification. Even the simple requirement that an independent candidate gather a certain number of signatures before being included on the ballot—a requisite in nearly every state—could be described as imposing a fourth qualification that he demonstrate quantifiable popular support.

Finally, the attempt to label a term limit as a qualification ignores constitutional history: The Framers fixed the three exclusive qualifications because they feared that Congress might enact a host of invidious membership rules designed to ensconce some groups on Capitol Hill and bar others. Term limits pose none of these dangers. They are motivated by the same ideals that motivated the Framers—a desire to secure broad political participation and a representative legislature.

Mr. Gorsuch is a Marshall Scholar at Oxford. Mr. Guzman is a legal assistant at the Iran-U.S. Claims Tribunal in The Hague.

State Term Limits That Pass Constitutional Muster

Today, term limit advocates will announce in Washington, D.C., that some 15 states, representing 35% of the nation's population, will vote this November on limiting the number of years members of Congress from those states may serve.

Opponents of term limits dismiss such citizen lawmaking. They argue that state-imposed restrictions on federal officials tend to undermine the federal government's ability to legislate and to ensure the nation's citizenship and residency qualifications for Congress. They are wrong, because most of the term limits before voters this fall would merely limit an incumbent's access to the ballot. An incumbent who reaches a term "limit" for a given office (usually six years

experts who always find new powers for the federal government. In the "penumbra" of the Constitution. But when it comes to according states their rights under Article I, Section 4 to regulate the "times, places and manner" of congressional elections, their narrow reading of the Founding document would make a constitutional illud.

Those who argue that states may not impose their own term limits say they run afoul of the Supreme Court's 1969 ruling in *Powell v. McCormack*, which found that Congress was unable to exclude a member-elect who met the constitutional requirements. They fail to note that *Powell* clearly silent on state regulation. "Powell clearly limits what the House might do, but it does not necessarily answer the question of what a state might do," says A.E. Dick Howard, a constitutional law professor at the University of Virginia.

The Founders clearly rested primary responsibility for election laws with the states, although they gave Congress the right to nullify undesirable regulations. States have used their power to restrict ballot access, use runoff elections and, in the case of Lyndon B. Johnson and Lloyd Bentsen, even allow candidates to run for two federal offices at the same time.

The Supreme Court has generally struck down ballot access restrictions only if they discriminate against the poor or other parties. In *Storer v. American Civil Liberties Union*, the Court held that California law barring independents from congressional races who had belonged to another party within 11 months of the election. The court dismissed arguments that this added another qualification for Congress as "wholly without merit." A decade later, in *Clements v. Fashing*, the court upheld a Texas "serve-your-term" law barring incumbents from seeking another office until their current terms had expired. The court found the two-year waiting period mandated by the

law a "de minimus burden."

The court has also found constitutional state laws that barred entire groups of people from holding office. The Hatch Act, passed by Congress in 1939, prohibits most federal employees from running for any election. In 1912, the court upheld an Oklahoma law that imposed the Hatch Act's prohibition on county judges. Chief Justice William Brandeis, writing for the court, said that the Supreme Court has chosen to construe the qualifications clauses of the Constitution very narrowly. "Indeed, it has used these clauses to strike down a legislative act only twice," they note. "By contrast, the Court has put Article I, Section 4 to ample use," and allowed states a largely free rein in writing their own election laws to reflect local preferences.

Perhaps the most dramatic example of the Court's restraint came in *Brundage v. Eddy*, a 1938 case. In June, in *Brundage v. Eddy*, the court which it upheld the laws of five states that did not permit write-in votes for any office. The court found that voters do not have a "fundamental" right to vote for anyone they choose and that a ban on write-in votes in a state where ballot access is relatively easy is perfectly legitimate.

Gary Lawson, a law professor at Northwestern University, says the court's upholding of a ban on write-in votes makes it likely that most of the term limits on state ballots this fall will be found constitutional. "The court will not tell anyone that they can't run," he says. "They simply level the playing field for competitors after a few years by forcing incumbents to run as write-in candidates." They would also provide an incentive for incumbents to repeat the ban on write-in votes in the live states that have them.

Under a write-in provision, true statesmen could continue in office if they had genuine and overwhelming support. Indeed, two sitting U.S. House members

(from Packard of California and Joe Steen of New Mexico) actually won their first terms as write-in candidates.

How many incumbents would actually mount a write-in campaign when their term limit expired? Only those who are effective and popular, thinks political analyst Stu Rottenberg. "Most members would be afraid to run without their party's endorsement," he says. "Incumbents would have as good a truly affirmative vote for them," he says. "Only the most self-confident would attempt it."

Should the modified term limits on many state ballots this fall be found constitutional, a major barrier to passage of a term-limit amendment to the Constitution—Congress's reluctance to impose limits on itself—might fall. "States that limit their own members of Congress will create a lobby of incumbents who will want to limit the terms of all members, so their constituents will be satisfied with the seniority," says Terry Condit, the former state legislator who wrote Colorado's federal term limit. Tony Osoillo, the former House Democratic whip, believes public pressure for term limits makes a constitutional amendment on term limits likely by decade's end.

Absent an amendment, Congress has the power to overturn any federal term limits approved by initiatives or state legislatures. But, as term-limit analyst Stephen Glatzer points out, a majority of members would have to agree before a provision favored by a clear majority of their voters. "Given its recent track record, it's highly doubtful Congress would take that risk."

Mr. Fend is a Journal editorial writer and co-author of the forthcoming book "Cleaning House: America's Campaign for Term Limits" (Doubleday/Galeview).

Rule of Law

By John H. Fund

for the House and 12 for the Senate) could run for re-election, but only as a "write-in" candidate. Because federal courts have upheld most state restrictions on ballot access, the legal case for states imposing their own modified form of term limits is much stronger than previously thought.

The mere idea that states might circumvent an entrenched Congress and pass their own limits on legislative tenure infuriates the barons of Capitol Hill. Last year, Speaker Tom Foley sent ballistic e-mails to a group of 100 House members who had signed a successful term limit initiative in his home state. "There is no, none, no legal case for the other side," he insisted. "It constitutes a legal fraud on the public!"

Mr. Foley and other incumbents believe that if they repeat this mantra often enough it will somehow be true. They contend that 71% of Colorado voters acted unconstitutionally when they limited their federal legislators in 1990. They are backed up by many of the same constitutional law

Term Limits Are Constitutional

By WILLIAM H. MELLOR

If Washington state imposes term limits on its congressional delegation Tuesday, the issue of whether or not such limits are constitutional will take center stage. Many lawyers and political scientists say no, but the Federal Constitution and states may add to the age, citizenship and residency qualifications set forth in the Constitution.

But critics of state-imposed term limits on Congress miss the point. Term limits do not add another "qualification" for service in Congress. They do not prevent anyone from having an opportunity to serve in Congress. They merely prevent a person who has already served a certain number of consecutive terms in office from serving another consecutive term.

State statutes that bar first-time candidates from running for Congress have been held to add to the qualifications set forth in the Constitution and have been invalidated. For example, the 1972 decision in *Dillon v. Ploomin* struck down a New Mexico law requiring candidates entering a congressional primary to have belonged to their party for a year and to pay a registration fee. The court said that simply limit the tenure of existing congressional officeholders have not yet been tested in court.

First Test

The constitutionality of such state term limits may, however, be tested next month. The U.S. Supreme Court has asked its state Supreme Courts for an advisory opinion on a term-limit initiative that would limit the state's members of Congress to eight consecutive years in office. Three U.S. House members, led by Democrat Larry Smith, have filed briefs asking the court to rule state term limits unconstitutional. The court will hear arguments Friday, and may rule later this month.

By 6 to 1, the California Supreme Court ruled this month that the state's new term-limit law was constitutional. The court said the "state's strong interests in protecting against an entrenched, dynastic legislative bureaucracy" outweighed objections that term limits restrict voter choice at the ballot box. But the court's decision affected

only term limits on state officials; federal officeholders weren't included in California's limits.

Nevertheless, the California decision demoralized many of the legal arguments made by incumbents. They claimed there

Federal courts have never held reasonable, non-discriminatory restrictions on who may run for office a violation of the right to vote.

is a "fundamental right to be a candidate for public office," which they found among the "associational and political rights" of the Amendment. They argued that voters were denied the right to be represented by the same legislator indefinitely, and that term limits discriminated against incumbents and denied them their right to equal protection of the laws. California's highest court rejected all of these arguments.

Term limitations do not restrict the right to vote for a candidate because of his or her ideology or party. Therefore, they do not deprive voters of the freedom to associate with candidates based on their viewpoint or with any particular party.

Rather, they prevent citizens from voting for a particular candidate after he has served in office a set number of years. They may not for that reason restrict the right to voting, but they do restrict the electoral manner on all candidates regardless of viewpoint or party affiliation.

In its 1972 decision *Bullock v. Carter* and again in its 1982 decision *Clements v. Fashing*, the U.S. Supreme Court determined that a particular candidate has no "fundamental" right to ballot access or to run for office. Federal courts have upheld many state restrictions on who may qualify for ballot access. They have never held on reasonable, non-discriminatory restrictions on who may run a violation of the right to vote.

Likewise, term limits do not violate the Equal Protection Clause of the 14th Amendment. The Supreme Court has found that clause violated only in those cases where ballot access restrictions discrimi-

South Carolina v. Baker, that certain "extraordinary defects in the national political process might render congressional regulation of state activities invalid under the Tenth Amendment." The court has not defined what it means by "extraordinary defects," but surely the fact that 98% of House incumbents are routinely re-elected and that one out of five incumbents ran with no major-party opposition in 1990 with 100% of the incumbent electoral vote must be regarded as extraordinary. If ideas or candidates and incumbents are less responsive to the will of the electorate. On this basis, term limits merely ensure a fair election system and the "republican form of government" guaranteed the states under the Constitution.

Should the court rule against term limits by the states, numerous other ballot access restrictions will likely be passed that have many of the same effects as term limits. One option would limit an incumbent's access to the ballot. States could allow an incumbent who has served a set number of terms to run only once more, again, but only as a write-in candidate. Presumably, if an incumbent were to win a crushing obstacle. Two sitting U.S. House Members won their first terms as write-in candidates. Incumbents would certainly have the resources to educate voters in write-in procedures.

'Ballot Statements'

Another option would require candidates to have "ballot statements" appear next to their names. Each candidate would have to answer the question: "Will you adhere to a --year term limit?" The answer would appear on the ballot so voters would know a candidate's views on term limits. Many such ballot restrictions have been upheld by the courts.

Incumbents should take heed. If they count only on the courts to safeguard their political castles, they may be in for a rude surprise.

Mr. Mellor is president and general counsel of the Institute for Justice, a Washington, D.C., litigation and educational organization.

Term limits to be among Clinton's first challenges

By Bruce Frankel
USA TODAY

President-elect Bill Clinton may soon be challenged to answer the groundswell of anger that roared across 14 states when term limits on Congressional office were approved.

Citing the huge margins of victory, term limit supporters say they'll ask Clinton and Congress to pass a constitutional amendment within his first 100 days in office.

"Until they act, we're going to keep the heat on," says Paul Jacob, of U.S. Term Limits. "We'll soon see if they are our representatives or if they view themselves as our rulers."

Clinton isn't likely to act.

He voiced his opposition to term limits during the presidential debates. And the measures passed Tuesday won't take effect for six years. Terms served earlier won't count.

Yet the sweeping success of the term limit drive almost guarantees that similar measures will appear on ballots in eight other states in 1994.

"This time, our side is not going to give them a free ride," says Victor Kamber, consultant to anti-term limit forces.

The one thing both sides seem to agree upon is that the issue will be tested in court.

Colorado's term limit law — which was passed last year and takes effect in 1996 — will probably be the first in court.

Many experts say the framers of the constitution specifically rejected term limits. They also cite a 1969 Supreme Court ruling that said the Constitution set only three qualifications for membership: age, citizenship, and residency.

But Dennis Hutchinson, a University of Chicago law professor, says, "I don't think it's an open-and-shut case."

"The Constitution states a ceiling and floor" but may have left room for state's "to be part of the dialogue on the outer limits of qualifications."

In California, voters added

Where limits approved

Voters in 14 states approved ballot measures Tuesday that limit the number of terms their representative can serve in office. The states, and the limits:

State	House	Senate
Ariz.	6	12
Ark.	6	12
Calif.	6	12
Fla.	8	12
Mich.	6	12
Mo.	8	12
Mont.	6	12
Neb.	8	12
N.D.	12	12
Ohio	8	12
Ore.	6	12
S.D.	6	12
Wash.	6	12
Wyo.	6	12

Source: USA TODAY research

limits on congressional terms to a measure passed last year limiting state tenure.

Lee Phelps, chairman of a group favoring term limits, says results there are a sign of term limit benefits.

"More candidates ran for office than at any time in history," including women and ethnic minorities, says Phelps.

But Ruth Holton of Common Cause says California's law "didn't change the process" so much as redirect political funding. "Traditionally, special interest groups poured money only into incumbent races and stayed away from open seats," Holton says.

This time, special interest groups simply followed the direction of state political leaders in donating to candidates.

"The problem with their (term limit supporters') argument is that it costs about \$500,000 to win a congressional seat in California. What ordinary citizen can afford that?"

TRUTH IN GOVERNMENT

THE NATIONAL ORGANIZATION FOR FISCAL INTEGRITY AND HONEST ACCOUNTING

HON. JOSEPH J. DIOGUARDI, CPA
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IT'S TIME TO COME CLEAN ON THE NUMBERS

Hon. JOSEPH J. DIOGUARDI

Member of Congress, 1985-89

Chairman, Truth in Government

Testimony before the

Joint Committee on the Organization of Congress

103rd Congress, June 29, 1993

Mr. Chairman, Members of the Joint Committee, thank you for extending to me the opportunity to testify before you this morning.

I come before you as a former colleague who spent 22 years in the accounting profession before being elected to the House in 1984. Among my activities since leaving the Congress, I serve as chairman of Truth in Government, a division of the Common Sense Educational Fund which was co-chaired by me and the former Chairman of the House Foreign Affairs Committee, the Honorable Dante Fascell of Florida. Truth in Government is a nonprofit organization dedicated to educating the public on the need for honest accounting and budget practices by Congress and the Executive.

I served for four years (1985-89) on the House Government Operations Committee and for two years on the House Committee on Banking, Housing and Urban Affairs, representing the people of Westchester County, New York. To the best of my knowledge, I was the only practicing Certified Public Accountant ever to serve in Congress.

Mr. Chairman, it comes as no surprise that the American people are crying out for Congressional reform. The presence of over a hundred newly elected Members of the House in this 103rd Congress reflects popular dissatisfaction and the demand for change.

The American people want fiscal integrity in their government, regardless of whether they believe the Federal government ought to spend more or less of our tax dollars. They demand that their tax dollars be managed wisely and in accordance with the kind of standards imposed upon the private sector. They demand a true and complete accounting of what our Federal government raised, what it spent, what it borrowed, and what we the people - and our children - owe. And they insist that Congress take these demands seriously, organizing its own processes to advance, and not inhibit, attainment of those overall goals.

A year ago I chaired a Task Force on Truth in Budgeting and Accounting sponsored by Association of Government Accountants. The Task Force was made up of some of the most experienced accounting and financial management people ever to work with the national government. I would like to submit that Task Force report for the Committee record, along with a newspaper commentary I authored on the Chief Financial Officers Act of 1990. I would also like to present each Member of the Committee a copy of my book UNACCOUNTABLE CONGRESS: IT DOESN'T ADD UP, published by Regnery Gateway in 1992.

Mr. Chairman, in my short time here this morning, I would like to make ten points which I feel are most relevant to the work of this Committee.

First: Congress should give strong support to the work of the Federal Accounting Standards Advisory Board. FASAB, created in October 1990, is working to produce a set of Generally Accepted Accounting Principles (GAAP) for the Federal government. It is my hope and belief that FASAB principles will embrace an accrual system of accounting - taking into account commitments as well as expenditures - in place of our present crude mom-and-pop cash basis accounting system, which merely records cash received and bills paid, not what is receivable and payable; present program performance data in a consistent format; and eliminate such budget gimmicks as off-budget expenditures, unrecorded contingent liabilities, and the notorious "savings to be realized later".

Second: Congress must give strong and continuing support to the Chief Financial Officer structure created in the 101st Congress. As many of you know, the CFO Act survived a serious attack mounted by a powerful Committee Chairman in the House in 1991. It will doubtless be the target of future undermining efforts when some Members once again seek to obscure favored agency spending or otherwise mask damaging management information. To allow this would be irresponsible. I want to take this opportunity to express my appreciation to

John Conyers, Chairman of the Government Operations Committee, and then-ranking minority member Frank Horton, for rallying to prevent the destruction of this important step forward.

Third: The House in particular should move swiftly to install its own Inspector General, as required by the House Administrative Reform resolution of April 1992. Although the House has long since appointed a director of financial management and non-legislative operations as required by that resolution, the House leadership has quite deliberately put off naming an Inspector General. That appointment should be made promptly.

Further, the powers of the House Inspector General should be expanded to give that officer powers and duties comparable to those in executive branch agencies. The Inspector General should be autonomous, not under the day to day control of the leaders of one party; authorized to examine the performance of Members' offices and committees; and be empowered to receive and pursue information offered by employees who have knowledge of waste and wrongdoing.

Fourth: Congress and the Executive should adopt separate budgets for General Funds, Trust Funds, and Government-Sponsored Enterprises (GSEs), as recommended by Comptroller General Charles Bowsher in October 1989. Such a division of the budget would recognize the essentially different nature of these three kinds of expenditures, and permit different treatment of them in a way that the private sector ordinarily employs. No longer should trust fund surpluses - now running some \$80 billion a year - be available to mask out-of-control spending in the government's general accounts.

Fifth: Congress and the Executive should adopt capital budgeting for genuine investment spending, such as aircraft carriers, highway construction, new buildings, and national park land acquisition. No private firm would engage in such long-term investments and expense the entire cost in the initial year.

Sixth: Congress and the Executive should adopt a two year budget cycle. This would allow Congress to give much more time to badly needed program oversight. Of course a supplemental appropriation bill would be necessary in the second year of the cycle, but strict House rules discipline could control the natural tendency to expand the supplemental to incorporate new spending favored by members.

Seventh: Congress must preserve the principles of the 1990 Budget Enforcement Act. The act created a fire wall between the three types of spending (defense, international, and domestic), and required that new spending be "paid for". Unfortunately Congress has a bad habit of waiving BEA requirements whenever a majority of the Members wants to engage in some uncontrolled spending.

Eighth: Congress should adopt the "porkbusters" proposal offered by a bipartisan group headed by Rep. Harris Fawell of Illinois. Obviously one Member's worthy project is another Member's pork. Congress will always vote some of it for someone. But Congress should never approve special appropriations added in conference committees or otherwise snuck into bills in the dark of night without open committee and floor debate.

Ninth: Congress should adopt some version of the Budget Process Reform Act introduced by Rep. Christopher Cox of California. Under it, a supermajority vote would be required for an appropriation which exceeded the previously adopted budget ceiling, and the President could veto any spending over the budget level subject to override by Congress. If Congress could not get its act together to meet budget act deadlines, the President would then be given enhanced rescission authority over any spending in excess of the previous year's for that category. The Cox proposal also gets rid of the specious and deceptive "current services budget", a major source of budget duplicity.

Tenth: Congress should tell the American people, in plain and unambiguous terms, just what it has done in spending, taxing, deficit reduction, and especially in creating unrecorded and contingent liabilities which must be paid in the future. I have long advocated a simple format like a credit card statement, which almost every American can understand. Such a statement must conform to GAAP and be independently audited by an outside CPA firm.

Mr. Chairman, the hardworking American taxpayers demand and deserve fiscal responsibility. They demand honest accounting. They demand a fair and consistent budget process, devoid of gimmicks. They demand financial management reforms for Congress as well as the Executive branch. They demand a fiscal policy which is based on economic reality, not political expedience or deception. In short, they demand truth in government, particularly in budgeting, accounting and reporting the true cost of government. And if they do not get it, their contempt for this institution will grow, until American democracy itself faces an insurmountable crisis.

This Committee has it within its power to take a number of worthwhile steps to meet the public demand for fiscal responsibility and financial integrity. As one who was proud to serve in this great House of the people, I hope, for its sake and theirs, that you will do so courageously and boldly.

#

UNACCOUNTABLE CONGRESS

It Doesn't Add Up

Joseph J. DioGuardi, CPA

Member of Congress
1985–88



REGNERY GATEWAY

Washington, D.C.

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Chapter Two

PLASTIC BUDGETING

DAVID STOCKMAN, at the conclusion of his four stormy years as director of the Office of Management & Budget (OMB), gave a speech to the Board of the New York Stock Exchange.

"As the fiscal crisis has worsened and the political conflict intensified," he said, "we have increasingly resorted to squaring the circle with accounting gimmicks, evasions, half-truths and downright dishonesty in our budget numbers, debate and advocacy. Indeed, if the Securities and Exchange Commission had jurisdiction over the executive and legislative branches, many of us would be in jail."

A lot of things Stockman said produced strong controversy, but to my knowledge no one ever took issue with that remark. As a CPA with many years of experience in the private sector, I knew what might have happened had I tried some of the now-famous gimmicks practiced in the federal budget process: the loss of a client for my firm; the loss of my job; perhaps the loss of my license to practice. At worst, I'd be sent off to another federal operation—like Leavenworth.

To an accountant trained in a profession that demands rock-solid integrity, federal budgeting is far from rock solid. It is, metaphorically, plastic budgeting, approved by people with little plastic cards and elastic standards of fiscal integrity.

UNACCOUNTABLE CONGRESS

It would be an exhausting task to present an encyclopedia of the ways Congress deliberately conceals the facts and misleads the public about the budget. But, just to give you the flavor, here is a "dirty dozen" of budgeting chicanery developed over the years.

GIMMICK 1: FUDGING THE ECONOMIC NUMBERS

When you project a federal budget for a future year, someone has to arrive at a set of crucial economic assumptions. Many federal payments, such as Social Security, are tied to the inflation rate, so first you must decide what that rate is likely to be. Since income taxes depend on corporate profits and thus on Gross National Product (GNP), you need to know how much you can reasonably expect GNP to go up (or possibly even down). Interest payments on federal debt depend on the market interest rate, so you must have some idea of what that rate is likely to be. These numbers, and others, are interrelated: move one, and they all move.

Every forecaster, including the OMB, the Treasury, and the Congressional Budget Office (CBO), has a complex computer model of government finances and the economy. If you enter one set of numbers, the model will give you a complete, consistent set of output numbers on which the budget is based. But what are the "best" numbers and assumptions to use? That depends in large part upon for whom one works. The OMB, in the Executive Office of the President, tends to generate numbers that will make the president look good—usually low inflation, high real growth, low interest rates, and a shrinking budget deficit.

Stockman, in his remarkable book *The Triumph of Politics*, tells how the Reagan Administration arrived at its economic input numbers in the spring of 1981. Competing groups of experts were haggling over the numbers. As the deadline approached for locking up the Reagan budget, Stockman called in Murray Weidenbaum, Chairman of the Council of Economic Advisers, and made a political deal. If Weidenbaum would agree to a "reasonably high" real growth rate, Stockman would accept whatever inflation rate was consistent with it.

When the "deal" was announced at the final economic meeting, there were grumbles from all of the contending factions. Finally

Plastic Budgeting

someone turned to Weidenbaum and asked, "What model did this come from, Murray?"

"Weidenbaum," wrote Stockman, "glared at his inquisitor a moment and said, 'It came right out of here.' With that he slapped his belly with both hands. 'My visceral computer.'" And thus were determined the economic assumptions that would shape a \$745 billion national budget.

Sen. Hank Brown (R-CO), then a dedicated, anti-spending congressman, launched a well-informed attack on phony economic numbers in a 1985 article. In the article he pointed out Congress' bad habit of picking economic numbers that would show the deficit shrinking—numbers wildly unattainable in the real economy.

Brown showed that using these phony numbers drastically underestimated future deficits. For example, the 1982 budget resolution forecast a \$1 billion surplus for fiscal year 1984; in fact, there was a \$175 billion deficit. The third-year projections of Congress were off by more than \$100 billion each year from 1980 up to the time Brown wrote in 1985.

The budget resolutions of 1985, said Brown, assumed a Treasury Bill rate of 7.9% in fiscal 1986. Even as Congress offered that assumption, the financial futures markets—where actual money was being spent for Treasury Bill futures—forecast rates ranging from 8.2% to 8.9% for the same period. Concluded Brown: "It would be nice to live in a fantasy world. But reality inflicts painful lessons on those who try to ignore it. It is time for Congress to deal with deficits realistically. We can't assume them away." Amen. (By the way, Hank Brown sat for the CPA exam and passed while serving with me in the House; he was elected to the Senate in 1989.)

GIMMICK 2: OFF-BUDGET TREATMENT

If your spending program threatens to increase the budget deficit, there is a very straightforward way of neutralizing it: Put it "off budget." A recent example of this technique lies in the operation of the Strategic Petroleum Reserve (SPR). It takes tax dollars to fill up the SPR with purchased oil, and that exacerbates the deficit. So in 1989 the Bush Administration simply declared the reserve to be off budget. That reduced the expected deficit by \$3.7 billion, but

UNACCOUNTABLE CONGRESS

the Treasury still had to go out and borrow the money to pay for the oil.

Another famous example of the off-budget scam was the Federal Financing Bank (FFB). This operation was created with good intentions in 1974 as a way to save the government money. The Bank raised funds in the marketplace for various agency programs that previously had sold their own bonds. Here's how it worked. The Farmer's Home Administration (FmHA) would make loans to farmers and rural communities. Pretty soon the agency would be "loaned out"—all its funds used up. So FmHA would sell the FFB a "Certificate of Beneficial Ownership" for the pool of loans it had made. With the proceeds of this "sale" FmHA would go out and make more loans.

Now the FFB would possess paper certificates from FmHA, but no more money. So the FFB would go out to the capital market and sell more of its bonds to raise funds for the next go-round. In 1990 the amount of FFB's outstanding loans was about \$134 billion.

But because FFB was set up off budget, the net effect of this sale was the appearance that FmHA had no on-budget spending. For example, if FmHA made \$5 billion of loans in a year, and sold \$5 billion in certificates to the FFB, the \$5 billion coming in would cancel the \$5 billion going out, and FmHA's on-budget outlays would appear to be zero. The FFB would have an outlay of \$5 billion—but off budget and not counted in the budget deficit. Of course, the FFB would have to go back to the Treasury and borrow billions more to start the cycle all over again.

Fortunately, this particular off-budget device is now history. A 1985 statute put the FFB back on budget, and in 1990 the Bush Administration started to sell off the FFB's assets, covering with appropriated funds the expected \$700 million losses on the sales.

The most bizarre example of the off-budget scam, according to Carol Cox of the Committee for a Responsible Federal Budget, is the one used to keep most of the 1989 savings and loan bailout off budget. The government created a new off-budget borrowing institution, the Resolution Trust Corporation (RTC). The RTC borrows \$50 billion off budget, and pays it to the on-budget (and insolvent) Federal Savings and Loan Insurance Corporation (FSLIC). According to federal government accounting, those payments become government revenue and reduce the budget deficit. The interest payable on the RTC bonds, however, are on-budget appropriations

Plastic Budgeting

which increase the deficit. But because the payments to FSLIC will be many times the interest appropriations, the net effect will be deficit reduction.

According to Karen Diegmuller, writing in *Insight*, it is as if a husband goes to the bank and borrows \$100. He gives \$50 to his wife to pay a bill, and they assume they have "saved" the other \$50, forgetting that they had to borrow \$100 in the first place. "There isn't any real good reason to do this unless we want to hide something," says Carol Cox. For Congress, of course, that is plenty good reason.

GIMMICK 3: THE CURRENT SERVICES BUDGET

The 1974 Budget Act requires the president to submit a "current services" budget showing what it would cost to keep the government running another year if there were no changes in policy. Congress' trick is to make a change in policy to restrain spending, then brag about a cut, when in fact the only cut is to the *projected* level of spending under existing policy.

For example, suppose the government in Year One is paying food stamp benefits to 1,000 families at the rate of \$3,600 per year. Based on the economic assumptions, there will be more unemployment next year and 1,100 families will qualify under the same eligibility standards. Accordingly, the current services budget will show an increase from \$3.60 million to \$3.96 million. Then Congress decides to tighten the eligibility standards so only 1,050 families qualify. Lo and behold, a "cut" of \$180,000 ($50 \times \$3,600$) materializes. But, in fact, government food stamp spending went up by \$80,000 over Year One. There was no real "cut"—only a reduced rate of spending increase. You can see why President Bush has blasted "wonderland budgeting," and Chrysler Chairman Lee Iacocca has said of it, "If we did this in business, they'd lock us up."

Rep. Bill Frenzel of Minnesota, one of the most experienced and conscientious members of Congress until his retirement in 1990, fought a continual war against the "current services" scam. Says Frenzel: "A current level, common-sense baseline would allow the American people to have a better understanding of how the federal government is spending their tax dollars. Our constituents don't, and shouldn't have to, understand the arcane language of current

UNACCOUNTABLE CONGRESS

services. The public deserves an honest budget, where doing nothing is no longer counted as a cut and increases have the same meaning as they would in any family budget."

GIMMICK 4: THE MAGIC ASTERISK

The magic asterisk is probably one of the most notorious budget gimmicks, and also one of the easiest to understand. In his book David Stockman describes its invention in the crucial 1981 budget very candidly. The administration's "Chapter Two" reductions fell far short of the \$130 billion needed to meet the budget target. "Bookkeeping invention thus began its wondrous works. We invented the 'magic asterisk.' If we couldn't find the savings in time—and we couldn't—we would issue an IOU. We would call it 'future savings to be identified.' It was marvelously creative. A magic asterisk item would cost negative \$30 billion . . . \$40 billion . . . whatever it took to get a balanced budget in 1984 after we totaled up all the individual budget cuts we'd actually approved."

That year the magic asterisk came out to equal \$44 billion. Stockman relates an amusing meeting with Senate Republican leaders, during which the question was raised of how to avoid the magic asterisk—either through more taxes or spending cuts. Majority Leader Howard Baker is quoted as saying, "Gentlemen, I'm tempted to designate this \$44 billion with a magic asterisk. But I won't. (pause) But come to think of it, that's our only choice. And so I will." Which, says Stockman, is how the \$44 billion magic asterisk was officially baptized by the politicians.

Even though the magic asterisk has become notorious, and is fairly easy to spot, its use continues. Franklin Spinney, the in-house critic of Pentagon budget gimmicks, pointed out in 1988 that the Pentagon's five-year spending plan coined a new version of the magic asterisk, which he calls "negative money." The 1990–94 defense plan turned out to be \$45 billion over President Reagan's final budget. So a new budget line was inserted that simply subtracted \$45 billion from the spending estimates. This "negative money" was explained as \$22 billion in as-yet-unidentified procurement reductions, plus \$23 billion in savings attributable to (unspecified) superior management.

Plastic Budgeting

One final example: in the fiscal 1992 Budget Resolution, Congress had an irresistible urge to add \$1.8 billion to certain education programs. But under the rules of budget accounting adopted in 1990, adding the \$1.8 billion could trigger a sequester. The solution: the magic asterisk. Congress cheerfully added an item called "unspecified spending reductions" in the amount of \$1.8 billion, thus (supposedly) bringing net spending under the budget target.

GIMMICK 5: THE FRAUD, WASTE AND ABUSE EXCUSE

Since there are few if any defenders of fraud, waste and abuse, a member of Congress can denounce such things with impunity, and sound very good to the constituents back home. Actually achieving savings by rooting out these costly activities is a lot more difficult. For instance, in the fiscal 1982 budget, the House Budget Committee simply invented savings of \$6 billion, the expected benefit from finding and eliminating the terrible threesome. Of course, nobody had the faintest idea where the fraud, waste and abuse could or would be found. Congress just declared that eliminating it would produce this amount of savings.

True, one probably can find a lot of fraud, waste and abuse in a \$1.4 trillion federal budget. Unfortunately it takes money to find it. Every person who uses food stamps illegally could be caught if a federal agent tracked him to see what he does with the stamps. The cost of the investigator might even be offset by the savings from the halted fraud, but that is obviously an inefficient tradeoff. Unless and until the perpetrators of fraud, waste and abuse feel the pangs of conscience and turn themselves in—probably the same day shrimp learn to whistle—the "fraud, waste and abuse" line item will remain as unbelievable as the magic asterisk and negative money.

GIMMICK 6: TRUST FUND DEFICIT MASKING

This is a dandy little scam because it produces big numbers—mainly because the biggest trust fund is Social Security. Thanks to a combination of the 1983 Social Security rescue program, which

UNACCOUNTABLE CONGRESS

hiked payroll taxes to prevent a crash of the program, and six straight years of a high-employment wage base, Social Security is now taking in much more than it is paying out. In 1992 this surplus will be about \$108 billion.

Now one of the most cherished Social Security fictions is that the trust fund balance is invested to accumulate at interest for 30 or 40 years, until it is needed to pay benefits to future retirees. As we shall see in Chapter 5, there really is no such trust fund in any meaningful sense: it is just the accounting equivalent of a large cookie jar filled with notes reading "Ma, I'll pay the missing cookies back later—honest."

But from an accounting standpoint, the Social Security trust fund ran a \$74 billion surplus in fiscal year 1991. This surplus cancelled \$74 billion of a \$342 billion deficit in all other accounts, leaving a deficit of "only" \$268 billion. The trust fund surplus has the effect of reducing the current year federal deficit by 27%.

From an economics standpoint this is not a gimmick. The net effect of the federal deficit on capital markets is \$268 billion, not \$342 billion, since the Treasury "borrows" the Social Security surplus before it goes out to sell notes and bonds to finance its shortfall. But to an accountant the addition of the Social Security trust fund surplus 'apples' to current deficit spending 'oranges' has the effect of "masking" the true level of current deficit spending. Were it not for the trust fund surplus, people would rightly see the federal government as much further into the deficit hole.

The 1990 Budget Enforcement Act significantly improved the budget treatment of Social Security, removing the trust fund surplus from the annual deficit calculation. The Act also included "firewall" provisions intended to make it difficult to spend the projected buildup of reserves on higher benefits. This much, at least, is progress.

GIMMICK 7: THE GIVE-AND-TAKE

This once-famous scam is scarcely seen anymore because it was so patently ridiculous that even members of Congress were ashamed to do it.

The debt limit increase bill of 1972 contained a bold, unequivocal

Plastic Budgeting

provision, section 201(a), which declared that not a penny more than \$250 billion could be spent on federal programs in fiscal 1973. Immediately below it came section 201(b), which said that the ceiling imposed by section 201(a) would become null and void *one day* after the bill was signed into law, along with any action taken during that one day—presumably by President Nixon.

This scam reminds me of the story of the Oklahoma Democratic Party convention of many years ago, where prohibition was the hot issue. The wets and the drys fought tooth and nail, but neither had the votes to prevail without shattering the party. Finally, they reached a compromise: the party came out foursquare for a ban on the sale of alcoholic beverages, but pledged that the ban would not be enforced.

GIMMICK 8: PHONY LIABILITY VALUATIONS

Suppose you unwisely lend your shiftless brother-in-law \$5,000 to buy a used car, and soon after he skips town for Mexico. You are later asked by your bank for a net-worth statement so you can get a loan for a new home. On your statement, under "Assets," you put "Promissory note—\$5,000." You know fully well you'll see neither the \$5,000 nor the brother-in-law again, but you list the note anyway. As your banker or accountant would be glad to explain to you, that's fraud.

Unfortunately, Uncle Sam makes this kind of bluff all the time. For example, the Federal Deposit Insurance Corporation (FDIC), which insures your bank account to \$100,000, collects premiums from banks to build up a reserve fund. Until the early 1980s this worked pretty well. Bank failures were rare, usually resulting from mistakes or fraud by individual officers.

But in the 1980s a massive contraction of agricultural land values and oil prices hit parts of the country very hard, particularly the Southwest. Banks started going under everywhere. The FDIC continued to value the loans of their insured banks at face value, even though the values obviously were plummeting. Then, suddenly, with depositors standing in line to have Uncle Sam pay them off, the truth hit: the FDIC was broke, and Congress had to put in billions of tax dollars to meet its obligations.

UNACCOUNTABLE CONGRESS

The same thing went on for years with Third World debts. Banks that had made loans to Argentina, Mexico and Brazil showed those loans at face value, even though the same types of loans were being sold in the secondary market at well below half their face value. For several years the government agencies regulating and protecting the banks blithely accepted the banks' false valuation of these loans, rather than face the fairly serious financial and foreign policy repercussions. In a famous—or infamous—address to the New England Council in November 1982, Fed Chairman Paul Volcker said that “where new loans facilitate the adjustment process and enable a country to strengthen its economy and service its international debt in an orderly manner, new credits should not be subject to supervisory criticism”—an open invitation to falsify asset valuation which had become common by the time the S&L industry crashed a few years later.

GIMMICK 9: FRONT-LOADING

A favorite trick of budgeteers is to front-load a new program—collecting taxes to pay for it for a year or so before the benefits begin to be paid out. Thus for a year or two the deficit is reduced by the new revenues. Only in the later years do the program costs overwhelm the revenues and add to the deficit—but, of course, that's somebody else's problem.

In 1988 Congress passed the Medicare Catastrophic Coverage Act. Not so wisely, in retrospect, Congress levied a tax of up to \$800 on senior citizens to pay for the program. The tax went into effect promptly, but the benefits weren't to be paid until later. Why? So \$5 billion could be sucked in to reduce the deficit immediately. As it turned out, this particular scam backfired. The outcries of senior citizen groups forced repeal of the tax, and the entire benefit program with it, in 1989.

GIMMICK 10: RECONCILIATION SAVINGS

Some of the most creative work ever done by Congress comes in the statements by House committees as to how they propose to meet

Plastic Budgeting

the guidelines of the first budget resolution. That resolution in effect tells each authorizing committee of the House (and Senate) to adjust its program to meet a target number. "Bald faced lying" would be too mild a term to describe the responses to this unwelcome instruction.

This is how the Armed Services Committee claimed \$1 billion in "savings." Military retirement law says retirees get a twice-a-year cost-of-living (COLA) adjustments in their paychecks. But if civilian retirees were to have their twice-a-year COLA changed to once a year, military retirement payments would, by law, have to follow suit. So the Armed Services Committee "assumed" that the Civil Service Committee would go to the once-a-year COLA, as the Administration had requested. Since that change would be matched by the military retirement system, the Armed Services Committee went ahead and claimed a \$1 billion "savings."

However, the Civil Service Committee, which Stockman described as "a wholly owned subsidiary of the federal employee unions," had no intention whatever of abandoning the twice-a-year COLAs for its main constituency. The Armed Services Committee members knew this well; their claim of savings was bogus.

The Civil Service Committee was even more creative. It claimed \$15 billion savings over three years by putting a cap on federal civilian employee pay increases. Wonderful! But in the fine print the committee specified that the cap could not actually be imposed unless the president imposed comprehensive wage and price controls on the entire U.S. economy, something the committee knew fully well President Reagan would not do.

The House Public Works Committee dutifully came up with billions in future savings for water projects, mass transit, highways, etc. How were all these billions to be saved? The committee merely sent a formal letter to the House Budget Committee solemnly promising that it would be done! (Stockman writes that this effort won the chutzpah award.)

GIMMICK 11: SHIFTING SPENDING TO ANOTHER YEAR

This gimmick has been around a long time and is very popular. It requires only changing the date of an expenditure to fall into a

UNACCOUNTABLE CONGRESS

different fiscal year, so that the current fiscal year's deficit objectives are more likely to be met.

In 1989 this was done, conspicuously, in two cases. Certain farm payments due in fiscal 1990 were accelerated to fall into 1989, along with the October 1 military payday, which magically arrived on September 29. Of course, the money still had to be paid out, so why worry about shifting it from one year to another? The answer is that fiscal 1989 was already "lost"—the deficit reduction targets mandated by GRH had not been met for that year, so a larger deficit wouldn't matter. If, however, the outlays were made in fiscal 1990, they would affect whether the GRH targets were met for that year. Since the political price had already been paid for failing to meet the 1989 targets, a larger deficit cost nothing.

GIMMICK 12: THE MONSTER BILL

The bigger and more impenetrable a spending bill is, the more likely it is to conceal lots of budgetary stinkers. As Congressman Chris Cox observed (in Chapter 1), members are not even allowed to see some of the bills they are voting on, bills so huge they come onto the House floor bundled up like old newspapers.

The 1989 reconciliation bill occupied 1,878 pages, a number determined after it had been voted on, since there wasn't time beforehand for such formalities as page numbering. Members often are forced to rely on such monster bills because they offer the only way to bring their proposals to the floor for a vote. Editorializing on this subject, the *Wall Street Journal* said: "Republicans especially want a guarantee from the House leadership that they'll get an up-or-down vote on the bills [they favor]. House Speaker Foley ought to deliver that promise. This is the way government is supposed to work, with politicians taking responsibility for votes that their constituents can identify, instead of concealing them in the great reconciliation garbage truck."

The monster bill has another vice. Once passed by Congress, the bill either can be signed or vetoed by the president—there's no middle ground. Thus Congress is fond of throwing in lots of separate provisions that the president ordinarily would veto, but can't, since he would have to veto the whole bill and shut down the govern-

Plastic Budgeting

ment. (President Reagan actually did this in the fall of 1981.) There is increasing speculation that President Bush may declare that he has the Constitutional power to veto discrete sections of a monster bill—in effect, the line item veto. I hope he does.

DODGING GRAMM-RUDMAN

At the time GRH was passed in 1985, even its co-sponsor Sen. Warren Rudman (R-NH) described it as “a bad idea whose time has come.” So in 1990 GRH was largely supplanted by OBRA, the Omnibus Budget Reconciliation Act, which created the new budget enforcement process already described in Chapter 1.

In its three years of effective life, did GRH hold down deficit spending? Co-sponsor Sen. Ernest Hollings (D-SC) thinks not. “I want a divorce from GRH,” he said in 1989, calling it now a “pure sham. . . . The 1990 budget is a deathblow to budget discipline, a spectacular jambalaya of tricks and dodges.” Senate Budget Committee Chairman Jim Sasser (D-TN) says, “You keep two sets of books. The official book is based on phony savings, and then there’s the real set where you leave unaddressed the problems that are getting worse.” House Budget Chairman Leon Panetta (D-CA) concurs: the law “provides all the wrong incentives.” Former CBO Director Alice Rivlin says “enormous efforts are being made each year to concoct a budget plan that appears to reach the next target by a combination of unrealistic optimism, shortsightedness, and outright cheating. The chances for realistic long run solutions to the budget problem have been virtually obliterated.”

On the other hand, Heritage Foundation budget expert Daniel Mitchell argues that the existence of fixed GRH deficit reduction targets—even though Congress cheated on them—was instrumental in bringing the deficit down from \$221 billion (1986) to the \$150 billion range (1987–89). While acknowledging GRH’s faults, Mitchell thinks the “floating targets” adopted in the 1990 budget deal made the abandonment of GRH a “horrible step in the wrong direction.”

The major loophole in GRH—the ultimate in plastic budgeting—was its requirement that the end-of-year deficit be projected almost a year in advance. “Projections” in Washington are usually far

UNACCOUNTABLE CONGRESS

removed from the ultimate results. All an administration has to do is "project" that spending will come in under the GRH target, and the sequester threat is gone for another year. And surprise! Every year since OMB has had the projection task, until fiscal 1990, it has projected that the targets would be met. In fiscal 1988, for instance, the projected GRH deficit target of \$136 billion, certified in October 1987, turned into a \$160 deficit when the smoke had cleared. No sequester.

Because the projection is all-important, every sort of scheme is employed to shrink the projected deficit in October. Social Security, though exempt from the GRH sequester penalty, was included in the GRH deficit accounting simply because it (then) produced a \$74 billion surplus to offset that much deficit spending elsewhere. The Postal Service was taken out of the calculation because it is a money loser (but will undoubtedly be put back in if it ever threatens to show a profit).

The Budget Enforcement Act of 1990, part of OBRA, changed the rules for the better, but there is still plenty of room for plastic budgeting. For example, as reported by the ever-watchful columnist M. Stanton Evans, "the 1990 Act allows additional outlays and further deficits resulting from 'technical' and 'economic' revisions—which is exactly where these colossal [budget projection] errors are coming from."

One may hope for better, but even the 1990 reforms may well disappear like GRH into a morass of dishonest accounting gimmicks. Until the day arrives when the people demand that their Congress live by honest accounting, and signs the deal in blood, plastic budgeting will continue—while our nation's prosperity and security slip down the tube.

Chapter Three

OUR NO-ACCOUNT FEDERAL GOVERNMENT

IT'S PRETTY HARD to know where you are going if you don't know where you are. Exploring the financial management of the United States government is very much like being blindfolded and lost in the New York subway system; you don't know where you are, have no idea where you are going—and you could fall off the edge at any moment with very unpleasant results.

Many years ago President Jefferson recognized this very problem. In 1802 he wrote his Treasury Secretary Albert Gallatin:

I think it an object of great importance . . . to simplify our system of finance, and to bring it within the comprehension of every member of Congress . . . the whole system [has been] involved in impenetrable fog. There is a point . . . on which I should wish to keep my eye . . . a simplification of the form of accounts . . . so as to bring everything to a single center; we might hope to see the finances of the Union as clear and intelligible as a merchant's books, so that every member of Congress, and every man of any mind in the Union, should be able to comprehend them to investigate abuses, and consequently to control them.

UNACCOUNTABLE CONGRESS

If President Jefferson could worry about "impenetrable fog" in federal financial management in 1802, imagine what he would say today!

To understand just how far we have strayed from the path of honest accounting, it's necessary to understand clearly what accountants do. In the private sector, accountants take stock of the operations of business firms so that their owners and managers will have some idea of how well they're doing. No intelligent business person wants to wake up to find that, for example, the machinery is all worn out and there are no funds to replace it, or that employees have been pocketing income unnoticed for the past ten years.

The accounting profession is very rigorous. The standards are high—they have to be high, because people place great trust in accountants. A survey commissioned by the American Institute of Certified Public Accountants in 1987, on its centennial, revealed that of a dozen leading professions, the public had the highest opinion of accountants. (The lowest? No surprise: "Members of Congress.") Accountants who "cheat"—lie, cover up, or invent bizarre treatments for a financial irregularity—will be called before a disciplinary board. They may lose their licenses to practice, be fined, or even be sent to jail. Bear in mind that this is not for stealing, but simply for failing to report stealing properly, for engaging in other dishonest practices, or for committing acts of gross negligence. Any sort of suspicion about an accountant's integrity can be fatal to continued practice. It is hard to imagine a profession whose members more jealously guard their reputations for integrity.

"Certified Public Accountant" is a title held by those accountants, and firms of accountants, who have met the highest possible standards for professional competence and integrity. In an economy where trillions of dollars are invested in the stocks and bonds of corporations about which the investor customarily has little direct knowledge, the annual reviews of independent CPAs are indispensable to investor confidence. Every corporation, partnership, trust, estate, proprietorship or nonprofit organization of any consequence requires a regular, independent audit of its books.

BRIDGING THE GAAP

When accountants examine the books and records of a business, they apply something called "Generally Accepted Accounting Prin-

Our No-Account Federal Government

ciples" (GAAP). These standards can be very complicated to apply in practice, and much of the intensive training taken by accountants is directed toward understanding how to apply them to particular businesses and industries. But, stripped of all its complications, GAAP is the application of common sense to the description of a firm's economic reality. The goal is to tell the owners and investors—and the tax collector—how the firm is doing and how it can be expected to perform in the future.

Any intelligent person can easily grasp the ideas behind GAAP. For instance, you must account for all the cash that comes in and goes out. If your firm orders a thousand widgets, funds must be allocated to pay the bill from the supplier when it arrives. Costs of producing various products have to be assigned to those products. Income tax withholding from employee paychecks has to be deposited in a tax account for the IRS. Illegal diversion of funds ought to show up in the accounting reports as, for example, unexpected shortfalls in revenues. Perhaps most important, the predicted cost of your promises to pay in the future must be reported and accumulated in time for payment. The two most important documents produced by an accountant are the firm's "profit and loss statement," showing whether it is making or losing money on its current operations, and its "net worth statement" or "balance sheet," which is a snapshot at a given time of what the business is worth—its assets minus its liabilities.

Accounting is more than bookkeeping, although bookkeeping is at the heart of it. Modern accounting must also deal with the complexities of the laws governing the organization, and particularly the tax consequences of various practices. The modern accountant is a far cry from Ebenezer Scrooge's Bob Cratchit, sitting on a high stool and laboring with a quill pen. He or she is now bookkeeper, informal legal advisor, tax manager, merger and acquisitions consultant, labor negotiation advisor, financial detective, management psychologist and even public relations advisor.

Accounting for the federal government is a particularly difficult business, and has been the subject of much controversy within the profession. With its power to change all the rules governing its own operation and, in effect, print new money through the Federal Reserve System, it is far different from even such a large government as that of the state of California, which must live within federal rules.

Unfortunately, the accounting of federal government financial performance is in a stage that most large businesses and many city

UNACCOUNTABLE CONGRESS

and state governments passed through many years ago. There are several reasons for that, but a major one is this: unlike the owners of a private business, who must know the status of their firm or face failure, the "directors" of the federal government—the members of Congress—would prefer that their fiscal handiwork remain concealed. The less the public understands of the financial condition of the federal government, the easier it is for Congress to go on with its long-running campaign of irresponsible deficit spending, deferred liabilities, false projections, and budget gimmicks.

A prime example of this blinders-on approach is the government's continued use of cash accounting, which looks at what cash comes in and goes out during a particular fiscal year. What comes in are taxes, tariff revenues, user fees, asset sales proceeds, and so on; what goes out are payments to employees, contractors, landlords, vendors, bondholders, retirees, poor and not-so-poor people, and so on. The difference is the annual budget deficit. (It could also be a budget surplus, but the last one of those occurred in 1969 and there is no likelihood of another one in this century.)

THE ACCRUAL ALTERNATIVE

The alternative to cash accounting is called accrual accounting. Under accrual accounting, all "economic events" are included as they occur, whether or not the cash actually changes hands. If someone contracts to buy a firm's widgets next year, and is likely to follow through when the time comes, that future sale becomes an economic event and should appear in the firm's financial records. By the same token, if your firm owes its employees payroll checks on the final day of the fiscal year, and doesn't pay them, that liability still remains under accrual accounting and must appear on the year-end financial statement.

Take another example: buying an aircraft carrier. Under cash accounting, the payments made to the shipyard are shown as outlays. Over the four or five years it takes to build the carrier, there are large capital cost outlays. Then over the 25 years the carrier is in service with the fleet there are no outlays for its capital cost. In effect, the capital cost has been front-loaded, although the useful life goes on far into the future. Under accrual accounting, the capital

Our No-Account Federal Government

cost of the carrier is spread over its useful life, even though the cash payments are actually made during its construction period.

The virtues of GAAP-basis accrual accounting are numerous. It recognizes obligations incurred even though not yet paid. It spreads capital costs over the useful lifetime of assets. It relates asset sales to useful remaining life. It rules out the clever smoke-and-mirrors tricks that Congress uses to mask the economic reality in a given budget year. Above all, it makes fiscal responsibility and financial accountability possible.

What is really interesting here is that the federal government is legally on an accrual accounting system. The law was solemnly passed by Congress in 1950 to carry out the recommendations of the two Hoover Commissions on government management. President Truman probably gave out pens he used to sign the act that would bring in a new era of accounting sanity to Washington. Unfortunately, once the photo opportunity was over, the federal government simply ignored the law; for over 40 years since the law was passed, it has stayed on a cash accounting system, and there appear to be no legal means to make it do what Congress decreed. For what it's worth, Congress also, in 1979, solemnly passed the Byrd-Grassley amendment, which states that by 1981 the United States government shall balance its budget. How well did Congress observe this law? As the late Sen. Everett Dirksen might have said, "Ha, ha, ha and, I might add, ho, ho, ho."

My old accounting firm, Arthur Andersen & Co., has been a pioneer in promoting the adoption of accrual accounting by Washington. Back in 1975, simply as a contribution to public dialogue, Andersen prepared prototype consolidated financial statements for the federal government using, as closely as they could, GAAP. At that time the Treasury stated that our national debt was \$344 billion—the sum of all the outstanding government bonds, notes and bills. In fact, Andersen found, the national debt was at least \$814 billion.

When Andersen did the books on a GAAP basis again, for 1984, the "official" national debt had mushroomed to \$1.3 trillion, and the true GAAP debt to an astounding \$3.8 trillion. Maybe there is some consolation in the fact that Washington is now reporting a higher percentage of the true national debt than a decade ago, but the trillion-and-a-half-dollar difference is not much cause for celebration. Even the higher GAAP figure is certainly understated.

UNACCOUNTABLE CONGRESS

As Andersen observes, a full accounting of future liabilities for Social Security benefits would expand the GAAP debt to \$6.1 trillion. This is about \$25,000 for every man, woman and child in the United States today. Andersen's report dryly notes that the GAAP-basis deficit, including the costs of future retirement liabilities, "exceeded all personal savings of the American people in 1984."

The Financial Management Service of the Treasury Department now publishes a "prototype" consolidated financial statement for the government. Its fiscal 1988 statement reported real progress in getting all agencies to conform to a standard system. Sixteen agencies were by then on the standardized system, using accrual basis data. On October 10, 1990, OMB, the Treasury, and the General Accounting Office (GAO) signed an important Memorandum of Understanding establishing a Federal Accounting Standards Advisory Board (FASAB). With this action the federal government may well be within two or three years of establishing, at long last, a consistent accounting system that will permit a truly accurate annual statement.

THINKING AHEAD

Capital budgeting and accounting go hand in hand with GAAP. As noted in the example of the aircraft carrier, sound reporting should spread the cost of such an asset over the years it is available for use. Historically, this has not been done. In the last three years, however, some government agencies, including Defense, have begun to treat new capital assets in accordance with GAAP principles. Congressman Bill Clinger of Pennsylvania has been an effective advocate of sound capital budgeting, and his persistent efforts seem to be bearing fruit.

A now-notorious fiscal crisis, directly attributable to bad accounting practices, stems from the condition of the nation's nuclear weapons producing facilities, such as Hanford, Rocky Flats and Oak Ridge. These giant facilities were built in the 1940s and 1950s, and paid for in those decades. Aside from maintenance and relatively minor expansions, they hummed along for forty years, all the while getting older, more decrepit, and more dangerous to their workers and, possibly, the public. All of a sudden, in 1989, the Department

Our No-Account Federal Government

of Energy found out that an enormous sum—up to \$150 billion, by some calculations—would have to be spent rapidly to restore these plants to safe and efficient operation. Had these assets been accounted for by a major chemical company, their deterioration and replacement would have been provided for, beginning the first day they went into operation.

Because of the cash accounting system used in Washington, there is a bias against capital investment. A new aircraft carrier or nuclear weapons facility may last forty years, but in the cash budget it appears as an outlay only during the years it's being built. Of course, the later years come "cost free," but most politicians are worried about the cash impact *now*—and that means in this year's budget. So it is politically easier to defer big chunks of capital projects (and even maintenance) until some later year, when it becomes somebody else's fiscal problem. That brings down this year's deficit. But if the project were accounted for over its useful life, the first-year costs would not be nearly as high, and thus the new investment might be affordable after all. Each investment ought to pass muster on its merits in competition.

In October 1989 Charles A. Bowsher, the Comptroller General of the United States and a highly respected accounting professional, released a GAO Report called "Managing the Cost of Government." This landmark document ought to be digested by every member of Congress, for it points the way to the kind of accounting sanity that has so long been absent from federal accounts. Bowsher's key recommendation focuses on three different kinds of spending engaged in by the federal government: general funds, trust funds and "enterprise" funds. These latter funds are entities like the Postal Service and the Tennessee Valley Authority. They provide services to the public and charge fees to the public. They also require business-type flexibility in their operations so that they can meet changes in customer demand.

Trust funds are, notably, Social Security retirement and Medicare funds, and the civil service and military retirement trust funds. During the 1980s steps were taken to change these funds from a pay-as-you-go basis, with no buildup of assets, into asset-holding funds which would be better prepared to meet large future obligations, especially when the Baby Boom generation starts to retire in about 2012. These four funds alone showed a surplus of \$86 billion

UNACCOUNTABLE CONGRESS

in 1988, and in a few years this number will escalate radically. The expected 1994 surplus of the Social Security fund alone is projected at \$113 billion.

The general funds of the government comprise everything else, including domestic and defense spending, environmental protection, welfare, justice, housing and national parks. The unified budget idea, first adopted in 1969, simply adds the pluses and minuses of all three types of spending into one budget deficit number. And it is on this number that the provisions of the Budget Enforcement Act operate.

As Bowsher shows, adding these dissimilar types of spending together gives a wholly misleading picture of the financial position of the U.S. government:

FISCAL YEAR 1988	BUDGET RESULTS	DOLLARS IN BILLIONS			
		TOTAL	GENERAL	TRUST	ENTERPRISE
Restructured according to GAO Proposal (approximations)	Operating surplus or deficit	\$- 131	-248	124	-7
	Capital Financing Requirements	-24	-23	2	-3
	Unified Budget Financing Requirements	-155	-271	126	-10

The chart tells us that the trust funds in fiscal 1988 produced a fat surplus of \$126 billion. The enterprises came in at -\$10 billion, and the remainder of government operated -\$271 billion in the red. The net total is the actual \$155 billion fiscal 1988 budget deficit.

The trust funds, mostly Social Security, are generating a huge net surplus—on the order of \$100 billion a year—which has the effect of masking a like amount of current deficit spending. But the Social Security and other retirement funds are by law pledged to cover future retirement costs of millions of Americans. To snatch these funds and spend them to reduce the general government deficit is nothing less than a breach of fiduciary duty which no private sector accountant could accept for a minute.

In addition, by including the enterprise accounts in the unified budget those enterprises are often shackled in their business-type

Our No-Account Federal Government

operations, their efficiency made subservient to the overall need to reduce the deficit. For example, the Postal Service was recently required to reduce its hours of window service in local post offices to contribute more to deficit reduction. The repercussions of poorer service on customers are not taken into account in this calculation.

Bowsher also proposes the introduction of capital budgeting into the federal budget process. At least 37 states use a capital budget, which recognizes that certain public investments yield a stream of benefits over a long period of time and should be paid for over the same period by those who enjoy the benefits (in this case, the taxpayers). To use a private sector example, it would be silly for a college to raise tuition by \$500 per each of 10,000 students to pay for a new \$5 million recreation facility—all in the year it was built. Those who paid the \$500 that one year would get, at most, four years of use of the facility, while future students would, in effect, get to use it free for many years. The correct treatment, of course, would be to bond for the \$5 million over, say, twenty years, and let the student tuition fees pay off the principal and interest each year.

Bowsher's proposal would also depreciate government assets over their useful life, to give an indication of how fast such assets were wearing out. He advocates new controls over non-cash transactions, where the government buys things by swapping other things for them. Since these are not cash transactions, they now operate outside normal budgetary controls. An example would be the payment-in-kind program to subsidize agricultural exports, where exporters are given rice or wheat from government stockpiles which they can then sell on the private market for cash.

GOVERNMENT CREDIT PROGRAMS are particularly troublesome. Suppose the government guarantees repayment of a home mortgage. For the first few years there is essentially no budget cost to the government for this guarantee. It is an unfunded promise. If there is a mortgage subsidy involved, the subsidy amount turns up in the budget, but there is no entry for possible default of the mortgage and claims for payment against the federal government. GAO recommends that funds to cover expected repayment defaults be appropriated at the time a loan or guarantee is issued, rather than appearing later, when actual defaults happen.

UNACCOUNTABLE CONGRESS

Every car owner understands this principle. The car may run fine for years, but you know that one day you will be facing major engine work, rusted rocker panels, bald tires and bad brakes. The trick is to anticipate these calamities and trade your car in on a newer one at the right time—preferably just before all these things start to go wrong. If you're smart, you'll be setting money aside for a year or so before that time, so you can afford the new vehicle. Unfortunately, as so often happens, your government is not as smart as you are.

But adopting Comptroller General Bowsher's sensible recommendations for budget treatment are not enough to straighten out our "no-account" federal government. We also need to create a working system of expert, professionally trained financial managers throughout the government, using the same high standards as their counterparts in the private sector.

BRINGING SANITY TO THE SYSTEM

When I was in the Congress I did an unusual thing. Whenever I could find the time, I took an Inspector General or senior government accountant or auditor to lunch. Most of them had never been asked to lunch by a congressman before. Even though I was a junior member of the minority party, they were pleased to accept my invitation, probably on the theory that it was the best they were going to get.

When I got an Inspector General's attention, I peppered him with questions about the workings of his agency, and about the internal methods used for keeping track of performance and spending. Once they got comfortable with me, they poured out some fascinating—sometimes depressing—stories of mismanagement and even scandal.

Out of those conversations, and with the counsel of many of my former partners and colleagues in the accounting profession, came a bill called the "Federal Financial Management Improvement Act." I probably should have called it something like the "Sex in Government Act"—it would have gotten more attention. Despite the crucial importance of honest and thorough accounting and financial management in our trillion-dollar government operation, most members of Congress turn glassy-eyed when someone brings up this subject, just as you might when your doctor begins discussing

Our No-Account Federal Government

the medulla oblongata or your lawyer mutters about the doctrine of *sic utere tuo*.

The Federal Financial Management Improvement Act proposed the creation of an independent Office of the Chief Financial Officer (CFO) within the Executive Office of the President. The appointee in this office would have the power, derived from the president, to whip the financial management practices of the many federal agencies into shape and consistency. The act would create an Assistant Secretary for Financial Management within each agency to spearhead the reforms and accountability procedures established by a Federal Financial Management Council, which would be composed of all the Assistant Secretaries and chaired by the Chief Financial Officer.

Even though the act did not pass initially, some of its provisions were achieved by Executive Order. A Chief Financial Officers' Council, composed of the CFOs from all agencies that have them, began to meet in 1989, chaired by the OMB Associate Director for Management. And the 25 Inspectors General also come together to participate in the President's Council on Integrity and Efficiency, chaired by the OMB Deputy Director.

The legislative breakthrough came in late 1990, spearheaded by two of my former colleagues on the House Government Operations Committee, Chairman John Conyers (D-MI) and ranking Minority Member Frank Horton (R-NY). Passage of the Chief Financial Officers' Act of 1990 was a giant step forward for sound financial management. As passed, the bill created a Deputy Director of OMB for Management and a Controller to head a new office of Federal Financial Management within OMB. The act created CFOs in the 14 departments, the Environmental Protection Agency, and NASA, and the heads of lesser agencies are required to appoint CFOs. The act requires financial plans and status reports from all the covered agencies and—at last—spells out a strategy for producing audited financial status reports.

I naturally was sorry not to have been able to take part in final passage of these important provisions, but I was tremendously pleased to receive a nice letter from President Bush after the signing. He wrote:

I suppose that everyone who has worked on the issue of Federal financial management improvement recalls how hard you worked,

UNACCOUNTABLE CONGRESS

starting back in 1986, to persuade Congress that the steps authorized by H.R. 5687 were badly needed. As a Certified Public Accountant you understood the need to strengthen the systems that provide the President, the Congress, and the American people with the information necessary to make informed decisions about how public funds are spent.

Now, Joe, your hard work has been vindicated by passage of the CFO Act by the House and Senate, and by its being signed into law. I regret only that you were not in the House to take part first hand in the ultimate passage of this important piece of legislation.

Government Operations Committee Chairman John Conyers was thoughtful enough to send me a handwritten note, saying, "It may never have happened without you." It was heartening to me to realize, once again, what my parents explained to me when I was a small boy on the streets of New York: that sometimes when you think you've lost, your efforts may lead to success in the long run.

In all honesty, however, I believe that the CFO Act, important as it is, has one significant flaw. I strongly believe that the nation's Chief Financial Officer ought to be within the Executive Office of the President, not within OMB—especially not two layers deep in OMB. The latter's primary concern is the budget and, as such, it must constantly resist the spending tendencies of the agencies. It wrangles with them over their spending plans, their statutory authorizations, and what are called "pass-backs" (annual OMB revisions of their spending requests). This unavoidable wrangling sometimes spills over into the Oval Office itself.

My concern is that by locating the CFO under a Director of OMB, the director is given a "financial management card" to play in these negotiations. That is, the director might be tempted to use the threat of an unfavorable financial management report against an agency head to try to get him or her to back down from a budget request. In my view, the CFO should have been given complete independence from the budget battles, and left to report to the president on financial management matters much as the president's Science Advisor reports to him on scientific matters. Time will tell if this concern is warranted.

Believe it or not, within six months of the CFO Act's passage, some members in Congress awoke to the possibility that sound financial management controls in the agencies might disrupt what one might

Our No-Account Federal Government

delicately call long-standing bilateral arrangements beneficial to certain congressional interests. Rep. Jamie Whitten (D-MS), Chairman of the Appropriations Committee, announced in a letter to Conyers and Horton that his committee would add language to all appropriations bills for fiscal 1992 which would prohibit use of any funds to implement the CFO Act in the respective agencies.

The reason behind the Whitten letter was apparently a proposed reorganization of the Department of Agriculture's management office to comply with the CFO Act. The proposal (later modified) would have diminished the influence of a senior career employee who had been, shall we say, extraordinarily responsive to the concerns of Congressman Whitten over the years. When word of the Whitten letter and amendment got out, Conyers, Horton, OMB Executive Associate Director Frank Hodsoll, and a coalition of citizen groups spearheaded by Thomas Schatz of Citizens Against Government Waste organized to defend the CFO Act. The issue came to a head on the House floor on June 18, when the Conyers-Horton amendment to delete the Whitten amendment was approved on a vote of 341-52. One may hope that this resounding defense of the CFO Act will discourage future congressional attempts to go back to sloppy, but politically advantageous, financial management practices.

It might appear that these new steps are just addressing problems by creating more government, more units, more bureaucrats. I am sensitive to that concern, because I share the view that government is getting far too big for the capacity of the American people to support or tolerate. But, on closer inspection, the idea makes sense to anyone trained in accounting and financial management. To me, after 22 years with a Big Eight accounting firm, it is obvious that all kinds of decisions are being made badly, with millions and perhaps billions of dollars being wasted simply because there is no effective way to measure spending and performance. Worst of all, the American people are constantly being engulfed in the modern equivalent of Mr. Jefferson's "impenetrable fog." If there was a magic bullet that would end this problem, I would be the first to call for it. Unfortunately, there is not.

The only way to correct these nagging and costly problems is to, first, summon the political will to declare that it must be done, and, second, put in place rigorous accounting and financial manage-

UNACCOUNTABLE CONGRESS

ment standards, agency by agency, through a coordinated effort of experienced, dedicated professionals strongly backed up by the Executive Office of the President. Such a structure would, I am convinced, pay for itself thousands of times over. An undisciplined, no-account federal government is far too costly and inefficient for taxpayers to tolerate one minute longer.

Chapter Seven

HONEST ACCOUNTING, DISCIPLINED BUDGETING, CLEAR REPORTING

SOMETIMES YOU KNOW where you are and where you want to go—but you've got a defective map and a broken-down vehicle. That's the situation Congress is in when it comes to budgetary issues. In recent years, thoughtful politicians of both parties, skilled technicians in the General Accounting Office (GAO) and the accounting profession, financial experts in the executive branch—all have contributed useful thinking to straightening out the budgetary tangle. The outlines of reform are becoming well-known. What is still lacking is a strong will to get the job done.

As an accountant in private practice, I often found myself trying to straighten out clients who had good intentions but bad bookkeeping practices. After 22 years I found that the best approach is to make up a step-by-step list of what it takes to convert a poor set of books into a good set. This is no secret. Every good CPA does the same thing, making use of appropriate accounting principles and practices.

UNACCOUNTABLE CONGRESS

Admittedly, applying Generally Accepted Accounting Principles to the federal government is much more difficult and uncertain than applying them to even a large multinational, multi-industry private sector enterprise. The government would demand even greater attention to the process by which budgetary decisions are made and the kind of information the system provides to the decision makers, including the 535 members of Congress.

Nonetheless, I believe basic reforms can and should be made right now; refinements, enhancements, and the quest for perfection can come later on. What follows is a seven-step program for getting the federal government back on track.

REFORM ONE: INSTALL ACCRUAL ACCOUNTING

As we discussed in Chapter Three, the federal government must abandon its antiquated mom-and-pop style cash accounting system in favor of more sophisticated accrual accounting, which reflects actual liabilities and future commitments. Since cash basis accounting ignores government obligations to spend money in the future, it gives a disastrously incomplete and inaccurate picture of where the government really stands. It also predictably allows legislators to favor today's voters at the expense of tomorrow's taxpayers.

I believe that the biggest single problem we face today in federal accounting is the huge amount of debt and contingent liability that is off the books. The press and public is rapidly catching onto this problem, as the savings and loan crisis blossoms into a taxpayer burden of \$132 billion to \$500 billion.

Congress' motto seems to be "Out of sight, out of mind" whenever the question of accrual accounting is raised. Unfortunately, what is out of sight today—tomorrow's bills—will surely come back like Marley's ghost to haunt future Congresses and taxpayers alike. With rigorous accrual accounting we are forced to face the true financial facts now, instead of enduring sudden and ugly surprises later.

We badly need capital budgeting and accounting that more accurately matches the cost of capital outlays (and inflated replacement value) with the useful life of the asset purchased. This is, in a sense, the flip side of the unrecorded liability; in effect, the "one year

Honest Accounting. Disciplined Budgeting. Clear Reporting

lifetime" asset. (Unfortunately, from a solvency standpoint, our unrecorded liabilities far exceed our unrecorded assets.)

It is obviously ridiculous to "expense" major capital items—write them off in only the first year when they may have a 30- or 40-year lifetime. Not only is this false accounting, but it results in a bias against capital investment. (If the budget has to take the full hit the first year, the chances of Congress approving the expenditure are reduced.) And, as a result, the executive branch develops a bias toward renting instead of buying or building, which clearly would be more economical over the useful life of the asset.

Moreover, we should adopt the GAO-recommended division of the budget into three major accounts: general, trust fund and enterprise. This division would flow naturally from adopting accrual accounting and capital budgeting, and would make budget documents far more understandable. All agency accounts should be strictly reviewed by outside auditors, and an easy-to-read overall financial statement of the federal government enclosed with the IRS package sent to taxpayers each January. (The House Republican Research Committee, co-chaired by Reps. Chris Cox (R-CA) and Sonny Callahan (R-AL), issued a pioneering version in 1990, covering fiscal 1990.)

REFORM TWO: AGREE ON ECONOMIC PROJECTIONS

It is no easy matter predicting the GNP and rates of inflation, interest and unemployment a year in advance. And it should not be surprising that competing branches of the federal government—the president and the Congress—arrive at different economic projections. The projections are often skewed for political reasons, but even if they weren't, there still would be plenty for reasonable people to differ over.

Comptroller General Charles Bowsher has testified that "there has been a persistent pattern of overly optimistic budget assumptions and projections, and the trend may be continuing. For example, the House and Senate budget resolutions for fiscal 1989 contained an estimated deficit of about \$134 billion. This figure was based on OMB's economic assumptions, considered very optimistic by many observers. The less optimistic Congressional Budget Office (CBO)

UNACCOUNTABLE CONGRESS

economic assumptions, however, placed the baseline deficit in 1989 at \$176 billion." (The actual fiscal 1989 deficit turned out to be \$152 billion, giving a range for the estimates of -12% to +16%.)

In recent years, the executive branch has made progress toward arriving at a consensus on economic numbers. It is called the "troika" process, because it involves three players: the OMB Director, the Treasury Secretary, and the Chairman of the Council of Economic Advisers. Once the troika agrees on key economic variables, those variables are used throughout the president's budget. But the troika numbers differ from private market projections because they assume the adoption and implementation of the Administration's program, which Congress may or (more likely) may not do.

It is easier to recommend having a consensus economic forecast than actually hammer one out between Congress and the executive. Nonetheless, it should be possible to arrive at a formula—including weighted contributions from various public- and private-sector models based on their past track records, and realistic expectations of congressional action on the president's proposals—that would come much closer to reality than what is now being used. A government that generates economic numbers via the equivalent of Murray Weidenbaum's "visceral computer" is not a government whose numbers will be taken seriously.

REFORM THREE: MOVE TO A BIENNIAL BUDGET

A two-year budget cycle would have many positive effects. Since some 60% of all congressional roll call votes now involve budget-related issues, the two-year cycle ought to spread the same number of votes (and hours of debate) over two years, leaving a lot of additional time for badly needed program oversight. Under a biennial budget, Congress would have to pass in the second year only those appropriations bills already agreed to in the first year. The appropriations process itself could also be switched to a two-year cycle.

The Defense Department already has switched to a two-year cycle because much of its expenditures (force levels) are stable and recurring, and much of the rest (procurement) requires multi-year

Honest Accounting, Disciplined Budgeting, Clear Reporting

planning. There also would be only half as many potential “running-out-of-money” crises with two-year budgeting.

In 1987 Congress and the president agreed to a two-year budget plan for fiscal years 1988 and 1989. This accord allowed Congress—for the first time since 1977—to pass all 13 appropriations bills without using continuing resolutions. In his fiscal 1990 and fiscal 1991 budget messages, President Bush proposed a permanent two-year cycle, noting, however, that it must be accompanied by strict discipline so that supplemental appropriations bills are not routinely used to change the deal halfway through. This proposal disappeared from his fiscal 1992 budget message, but should be revived.

REFORM FOUR: ENHANCE PRESIDENTIAL RESCISSION AUTHORITY

Rescission authority is the power Congress gives the president to propose reductions in spending already voted. Since the 1974 Budget Reform Act, the president must propose rescissions to Congress, which need not act on them. They can just yawn, go about their business, and, after 45 days of congressional inaction, the rescissions fail. President Reagan won some significant rescission votes in the wake of his smashing 1980 election victory, but since then the great majority of proposed rescissions have disappeared without a trace on Capitol Hill. In fact, in President Reagan’s last four years only 8 of 164 proposed rescissions were approved, totaling just \$183 million out of \$16 billion. That’s about 1 percent of the total cuts requested.

Enhanced rescission authority puts the shoe on the other foot: the rescissions go into effect unless Congress acts to disapprove them within a specified time limit. Senators Dan Coats (R-IN) and John McCain (R-AZ) have led the fight for this important tool.

REFORM FIVE: ENFORCE THE 1990 BUDGET ENFORCEMENT ACT

The new spending discipline mechanisms provided by this act have been described in Chapter 1. The House vote on the first day of the

UNACCOUNTABLE CONGRESS

1991 session, which transferred the budget-scoring duty from OMB to the Democrat-controlled CBO, was an outright repudiation of a key part of that act. If this trend continues, all of the discipline potentially achieved in the famous "agreement" of October 1990 will slip away. A specific danger area is the manipulation of "economic and technical corrections" to allow more spending whenever the act's categorical ceilings threaten to put Congress on a spending diet.

REFORM SIX: ADOPT THE BUDGET PROCESS REFORM ACT

The budget enforcement provisions of 1990, coupled with the reform of budget accounting itself, would be significant improvements. But, thanks to the efforts of Rep. Chris Cox (R-CA), there is an even more sweeping reform on the table. Cox's reform act is brilliantly devised to encourage those who tend naturally to do the wrong thing—members of Congress—to do the right thing.

Cox's plan would begin by establishing in law by May 5 of each year a budget resolution containing only 19 numbers, one for each of the major policy or appropriation areas. This would be a joint resolution signed into law by the president. The only exemptions would be Social Security and interest on the national debt. After adoption of the budget law, the president would present his detailed proposals, and Congress would adopt individual appropriations bills within the budget law ceilings.

If Congress passed an appropriation bill exceeding the ceiling, however, a two-thirds vote of each house of Congress would be required. The president would be given enhanced rescission authority with respect to any amounts over the budget law ceiling; Congress would have a chance to override each reduced item. Agency heads would be required to make up plans for how entitlement funds would be allocated in case the resulting appropriation fell short of requirements.

If Congress could not get its act together and pass a budget law before May 15, the president automatically would get rescission authority over any subsequently passed amount over the previous year's budget. And the passage of the budget law would require a

Honest Accounting, Disciplined Budgeting, Clear Reporting

two-thirds vote in each house. This would give Congress a powerful incentive to stay on schedule.

What if Congress couldn't pass its appropriations bills by the October 1 budget deadline? Then an automatic continuing resolution would go into effect, authorizing only the same amount as was spent in the previous year. (This would be worthwhile even if the rest of the Cox plan were not adopted.) The CBO would be the scorekeeper.

The Cox plan as revised in late 1991 now incorporates the enhanced rescission proposal (Reform Four) and does away with the current services budget (Gimmick 3).

Former Office of Personnel Management Director Donald Devine has written that "all the Cox proposal does is make Congress live up to deadlines it has already set for the budget process. It's a brilliant idea, and responsible congressmen should be pleased at the external discipline this would place on their voting decisions. As for the others, the taxpayers should know who they are so they could apply some heat. Mr. Cox surely has given them the blowtorch."

REFORM SEVEN: ADOPT A SPENDING CONTROL AMENDMENT

Ordinarily this proposal is called the "balanced budget" amendment, and its underlying principles and various provisions are well described in Lewis K. Uhler's book, *Setting Limits: Constitutional Control of Government*. The idea here is to establish in the Constitution some brake on perpetual deficit spending and, depending on the version, a limit on taxation. Perhaps the Cox Budget Process Reform Act would suffice; it is certainly worth a serious try. But the idea of a constitutional limitation on spending and taxing ought to be kept on the table, if for no other reason than to keep the pressure on Congress to do something responsible before the hammer comes down. (The 1990 version of the amendment was defeated in the House. The vote was 279 in favor to 150 opposed, just seven votes short of the required two-thirds vote.)

The generic "balanced budget" amendment relies on the adoption each year by Congress of a statement of projected revenues and expenses, which would have to be in balance. In some versions, a

UNACCOUNTABLE CONGRESS

deficit can be projected only with a supermajority vote in House or Senate. In others, there is a tax-limitation provision that prevents Congress from meeting balanced budget goals by the simple expedient of raising taxes.

An alternative proposal deserving serious consideration focuses not on a "statement" adopted by Congress—whose "statements" are not to be believed by intelligent people—but on the act of issuing more gross federal debt. In this version, a dollar limit, like \$5 trillion, is set in the Constitution, and when that limit is reached no government official can authorize the issuance of any additional bonds, notes or bills. A different version (Armstrong-Boren) would allow the issuance of additional debt only with a supermajority vote in Congress. (If \$5 trillion seems too large and far away, consider that in 1990 Congress set a new statutory debt ceiling of \$4.145 trillion, which will be reached before the end of 1993.)

The debt limit approach has the great virtues of avoiding "statements" of Congress and achieving self-enforcement. Were the specified limit reached, no more debt could be issued. If the Treasury Secretary signed indentures on additional bonds, conservative Wall Street bond counsels would simply decline to certify them as validly issued debt instruments, and typical bond buyers would decline to buy them. The Treasury might survive for a while selling small-denomination savings bonds to individuals, or special securities to foreign buyers, but that could not go on for long. The unmarketability of securities issued after reaching of the debt limit would force some action: either a balanced budget or a sale of excess government assets (only a temporary solution). If the debt limit amendment included a tax limitation clause, the only viable long-run alternative would be to restrain federal spending. This would be a fiscal responsibility provision with "great white shark" teeth.

Such a program of accounting and budget reform, added to the new financial management tools described in Chapter 3, would at last bring some badly needed good sense and fiscal responsibility into a badly flawed process.

Chapter Eight

CUTTING THE CARD

"WHENEVER THE PEOPLE are well informed . . . and things get so far wrong as to attract their notice, they may be relied upon to set them right." So spoke Thomas Jefferson, the apostle of American democracy, at the time of the ratification of the American Constitution. A strong proponent of civic activism, he spoke approvingly of Shay's Rebellion, in which armed Massachusetts agrarians marched to the Springfield Court House for redress of grievances. And he made a continuing apology for the excesses of the French Revolution.

But when Mr. Jefferson became president, he had cause to reassess his earlier enthusiasm for citizen protest. In 1807 he secured passage of the Embargo Act, prohibiting trade with Great Britain and its colony, Canada. The people of Northern New England openly disobeyed and ridiculed the act, and mocked the few customs officials who dared to try to enforce it along the Canadian border. When dozens of Vermont town meetings demanded its repeal, President Jefferson ruefully observed that he had "felt the foundations of government shaken" in a manner that could "overrule the Union."

The same citizen defiance of government has broken out many times in our history: against the 1828 "Tariff of Abominations"; against the Fugitive Slave Act and the extension of slavery into

UNACCOUNTABLE CONGRESS

"Bleeding Kansas"; against the shameful segregation of Black Americans; and against withholding income tax on interest accrued to bank savings accounts. Most recently, the people have risen up to defeat (albeit briefly) the congressional pay grab of 1989.

The "pay grab" incident illustrates how citizen power in our age can defeat outrages perpetrated in Washington. On December 13, 1989 the Quadrennial Commission on Executive, Legislative and Judicial Salaries issued its report on pay increases for, among others, members of Congress. The Commission recommended congressional pay increases from \$89,500 to \$135,000 a year. Under a provision concocted in 1985 to protect congressmen from the heat of increasing their own pay, the Quad Commission recommendations, once approved by the president, would automatically go into effect without a vote, unless Congress acted to disapprove this expansion of its own benefits within 30 days.

In 1987, for instance, the Quad Commission and the president recommended a 16% pay increase. The Senate voted to disapprove it, but the leadership of the House contrived to delay the House vote until the 31st day. The House, of course, then voted strongly against its own pay increase—one day after the deadline, so it had no effect. Both House and Senate went home with fatter paychecks, and most of its members could crow to their constituents about voting against the pay raise even as they were licking their lips over their fattened paychecks.

When the 1989 pay hike came around, outgoing President Reagan passed up his chance to reduce the increases to a reasonable level, and headed home to California. President Bush, in turn, ducked the issue. Unless Congress acted to defeat the pay raise by February 7, the deal was done. The Senate had passed a resolution of disapproval, but the leadership of the House, notably Speaker Jim Wright, announced that there would be no opportunity for a House vote to disapprove the pay raise until after the deadline.

Meanwhile, a firestorm had started to build among the people who would have to pay the bills for the pay raise—not only the immediate salary costs, but also the inflated retirement benefit package tied to the salaries (Speaker Wright, for example, would realize a million dollars in increased pension benefits from the 50% pay raise). Editorials thundered against it. The phone lines on radio talk shows crackled with cries of outrage. Letters to editors vilified

Cutting the Card

every person involved in this shabby scheme, Republican and Democrat. Bags of mail and thousands of phone calls converged on Congress. National publications such as *Human Events* trumpeted the pay grab on their front pages. The National Taxpayers Union fanned the flames through direct mail and media events. Tens of thousands of Americans sent their representatives tea bags, reminders of the Boston Tea Party, with a concise message attached: "Read My Lips: NO Pay Raise." The heat was on—really on!

But Jim Wright and his allies (of both parties) held fast. All they had to do was stall until midnight on February 7, and the money was in the bank. Since Wright controlled the Rules Committee, the Senate-passed resolution of disapproval could be safely bottled up.

Wright, however, underestimated the resourcefulness of one of Congress' great taxpayer champions, Rep. Bill Dannemeyer (R-CA). On February 6 he threw the House into a panic by introducing a new resolution requiring the House to vote before the deadline on the resolution of disapproval. The trick was to force a vote on it. Dannemeyer moved that his resolution be treated as a "privileged matter," entitled to precedence. Rep. Thomas Foley (now Speaker) was in the chair at the moment. He contrived to delay a ruling. But under House rules a privileged motion must be given priority over other House activity. Dannemeyer had previously reserved one minute to address the House, and now he used it to inform the House that, one way or another, there would be a vote on the pay raise that day or the next.

Dannemeyer had the pay-raisers where he wanted them. If his motion were ruled privileged, he would have an up-or-down vote on the pay raise. If the Chair denied his request for privilege, there would be a roll call vote appealing the denial. And if the leadership moved to adjourn, he would insist on a roll call on that motion.

The Democratic leadership then moved to adjourn. But the members, having been told very clearly by Dannemeyer that the upcoming vote was, in effect, the pay-raise vote, defeated the adjournment motion 238-88. The following day, Dannemeyer's pay grab disapproval resolution passed 380-48. It was rushed to the Senate, where it was approved 94-6. The pay raise crashed in flames. The people had won a rare victory over the business-as-usual politicians.

The victory was short-lived, however. Nine months later the pay

UNACCOUNTABLE CONGRESS

grabbers succeeded in getting a 40% pay hike by using some of the most underhanded tactics ever seen in a place famous for them—"a House of ill repute."

Within three days of the new pay grab's unveiling in November 1989, the bill was whisked through both houses of Congress and signed into law. Congressional leaders had learned the hard way that a naked pay raise—not masked by other provisions—would fail. So this time the grab was cloaked in something labelled "the Government Ethics Reform Act of 1989." Congressmen could return home and tell their constituents that they had staunchly backed reform of "government ethics" (which sounds to most people like a patent contradiction in terms, like "jumbo shrimp").

To further cover up this charade, the Republican and Democratic congressional campaign committees and the two parties' national committees made a quiet "non-aggression pact." A copy of the pact found its way into the hands of Citizens for a Sound Economy, which published excerpts in its June 1990 bulletin. The key clause: "The vote on (this bill) is not an appropriate point of criticism in the coming campaigns. We will publicly oppose the use of this issue in any campaign in the 1990 cycle." The two campaign committees even agreed to withhold campaign funds from challengers in 1990 congressional races who would make this lightning pay grab an issue against incumbents. National columnist Robert Novak, speaking later at Hillsdale College, had this to say about this reprehensible scam: "The Republican and Democratic congressional leadership made a deal which, if the Sherman Antitrust Act had been heeded, would have sent them all to prison. . . . I have been covering Washington politics for almost forty years, but it was not until then that I knew that the whole system was and is irredeemably corrupt. . . ."

Two members of Congress who apparently agreed are Hank Brown (R-CO) and Andrew Jacobs (D-IN). On August 2, 1990 they introduced a bill to repeal the 1989 pay raise and put congressional salaries back to \$89,500, while preserving the other "ethics" reforms contained in the 1989 act. At a news conference announcing the legislation, Brown was joined by Citizens for a Sound Economy, Citizens Against Government Waste, the National Taxpayers Union, Coalitions for America, and Ralph Nader's Congressional Accountability Project.

"No company in this nation would hand out a 25 percent pay raise to their employees if they were more than \$3 trillion in debt,"

Cutting the Card

Brown said. "Yet on the heels of raising our debt limit, and when the federal government continues to dig the nation into a deeper financial crisis, its top elected and appointed officials ask for more money. Fiscal responsibility has fallen to the wayside." Added Alan Keyes, president of Citizens Against Government Waste, "There is only one way for ordinary citizens to deal with this irresponsible behavior. If Congress does not reverse this hypocrisy . . . the American people . . . will have the final word in November."

UNFORTUNATELY, THE AMERICAN people did not take it out on the salary grabbers in November 1990. And so, emboldened, the Senate came back in 1991 with yet another grab. On July 17, a day that, like Pearl Harbor Day, should live in infamy, the Senate by a 53-45 margin voted its members a \$23,100 pay raise "to achieve parity with the House." It did so unannounced, beginning at 8:47 P.M., after most of the national press corps had headed home for the day. By 9:50 P.M. the deed was done. The "Stealth pay raise," as *Washington Times* columnist Clarence Page called it, took effect not after the 1992 election, but as soon as it was approved by the House and signed by the president.

The National Taxpayers Union calculated, in addition, that the pay raise could boost a senator's lifetime congressional pension by anywhere from \$325,000 to \$2 million. Unlike most private sector retirement plans, the congressional retirement benefits are fully indexed for inflation. If he retires in January 1995, at the end of his present term, Sen. Robert Byrd (D-WV), the architect of the pay raise, will receive an annual pension of \$111,800, almost \$20,000 more than he would have been entitled to without the raise and more than the pre-raise level for active Senate service.

In November 1992 the people will get a chance to pass judgment on some of those senators who voted themselves this lavish pay increase. But punishing these miscreants in November 1992 is not enough.

CITIZENS MUST DRIVE REFORMS

America sorely needs a people-power coalition to bring our national government back under control—not just on one burning issue like

UNACCOUNTABLE CONGRESS

the pay raise, but on the whole question of the shabby, dishonest, disgraceful way our government runs its business.

I am not calling—here—for a coalition to cut government waste or to reduce the size of the federal government. Nor am I calling—here—for tax reductions. I do support the efforts of many groups like the Citizens for a Sound Economy, National Taxpayers Union, and Citizens Against Government Waste, who embrace those particular goals. But the overarching, crying need is to generate an explosion of citizen demand for a government which is not only up front and candid, but *honest with its numbers*.

So long as the federal government—Congress and the executive branch—go on falsifying the true accounting of our nation's taxing and spending, none of us can have any clear idea of where we stand and what we must do. Honest accounting, the essence of public accountability, is at the heart of every needed reform.

One of the glories of America's history is the degree to which—with the one awful exception that culminated in the Civil War—Americans see their national government as legitimate and honorable. We may argue about whether to spend more on defense or on Social Security or on food stamps. We may go at each other hammer and tongs over who should bear the burden of higher taxes, if any. But at a level beyond those issues there has been a consensus that our national government "adds up" all right. The unhappy truth is that our government doesn't add up any more, and a growing number of people are coming to realize it.

How can a citizen have any respect for his or her national government when it is clear that its financial accounts have been doctored, fudged and distorted solely to serve the interests of those in power? Or pledge allegiance to a government that silently and covertly adds hundreds of billions of dollars of future liabilities—which are never reflected in its financial accounts and statements? Or part peacefully with tax dollars when the government permits billions of dollars to wander about its financial landscape without effective information and controls over where it goes?

Imagine yourself at an annual meeting of a large corporation in which you are a stockholder. Suppose the corporation's accountants report to you that the corporation can't pass an audit, has disguised or failed to record billions of dollars worth of accrued liabilities in its books, regularly uses phony economic figures, and has no chief financial officer. After the initial shock wore off, you probably would vote

Cutting the Card

to dump the management at once. If that failed, you would be on the phone to your broker to unload your stock as fast as you could.

That's just where we are with the federal government. There are over a hundred million taxpayers who are, in a sense, shareholders in this multi-trillion-dollar enterprise. When they find out how their government is cheating on the basic information they need to make intelligent decisions, they will probably vent their fury just as they did on the 1989 pay raise issue. They certainly should!

At risk here is continued support of our national government by the great middle class, the people who hold the jobs, run the businesses, own the homes and pay the taxes. Once confronted with the facts, they'll see that their prosperity and security are intertwined with what our leaders in Washington do with the power "we the people" have conferred upon them. They cannot help but understand that the mistakes we make today will become the ugly surprises for our innocent children and grandchildren, who will be called upon to pay the bills.

As a CPA, this is crystal clear to me. But you don't have to be trained in accounting to understand that Thomas Jefferson was right when he said to James Madison that "the accounts of the United States ought to be, and may be made, as simple as those of a common farmer, and capable of being understood by common farmers." As president, he instructed his Treasury Secretary Albert Gallatin:

If . . . there can be added a simplification of the form of accounts in the Treasury Department, and in the organization of its officers, so as to bring everything to a single centre, we might hope to see the finances of the Union as clear and intelligible as a merchant's books, so that every member of Congress, and every man of any mind in the Union, should be able to comprehend them, to investigate abuses, and consequently to control them.

Mr. Jefferson had the right idea. Unless the people can control their government, it is no longer theirs. And until the government is made to account honestly, fairly and openly for what it does with the money it spends today and holds for the future, the government is not under the control of the people. It is time, indeed past time, for those who stand for truth in government to create a "Truth in Government" coalition to bring about some fundamental reform. That coalition will include groups fighting government

UNACCOUNTABLE CONGRESS

waste and abuse, groups representing the taxpayers, groups of businesses small and large, good government groups, and just about everyone who is not a party to or a beneficiary of the present web of fiscal deception.

The Bush Administration is promising more vigorous initiatives toward honest accounting and good financial management. Its 1991 budget asked for funds for more audits and investigations of government spending. It also asked for \$3 million (.00024 %, almost an invisible amount in a budget of \$1.223 trillion in outlays) to improve the workings of the Federal Managers Financial Integrity Act. Those funds will support a tough program to link internal control review and reporting to the budget. They also will promote senior agency management involvement in the internal control process, and follow up on efforts to correct shortcomings. That's a start in the right direction. The 1992 budget document reports encouraging progress, candidly lists 117 "high-risk areas" and details the steps being taken to get the problems under control.

A Truth in Government coalition would present a list of specific steps and get every member of Congress to "take the pledge" to support them. Many of the items in this list have been described in earlier chapters:

1. Accrual or "liability" accounting in place of cash accounting
2. Capital budgeting
3. Redefinition of the budget into general, trust fund, and enterprise accounts
4. Honest, realistic economic projections, openly arrived at
5. Biennial budget cycles
6. Strong enforcement of the 1990 Budget Enforcement Act provisions
7. Congressional budget process reform
8. A strongly supported and independent Chief Financial Officer
9. Auditing of the federal government's activities by independent, "outside" Certified Public Accountants
10. An honest and understandable annual financial statement to citizens and taxpayers

Note that I have left off two proposals that I urged in Chapter 7: enhanced rescission authority or line-item veto, and a balanced

Cutting the Card

budget-type constitutional amendment. I have done so because they are political devices to curb the growth of the federal government and expand the power of the president vis-à-vis Congress over spending decisions. As such, they are not in the same category as the ten honest budgeting, accounting and financial management issues listed above. They comprise a core of non-ideological proposals relating to process, reporting, accounting and financial management. Even those who urge more federal spending and taxing can in good conscience sign on to this reform package—unless they hope to advance their own interests at the expense of honesty, openness and good government. The present workings of the federal government afford ample opportunity for stealthy maneuvers. Those who delight in promoting their special interests through sneaky and dishonest gimmickry will oppose a citizens' movement for honest accounting and fiscal responsibility. As politicians are sometimes said to pray, "Let my opponents be dishonest, venal, arrogant and underhanded, Lord, that I may look the better."

DEMANDING TRUTH IN GOVERNMENT

It is time that concerned citizens put together a truly irresistible movement to tell our elected officials loud and clear that we're onto their financial deceit, and won't stand for it one day longer. How would such a national "Truth in Government" citizens' movement work? Here are a few suggestions for action:

- *Action One:* Develop and publish a very specific "honest budgeting credo" for members of Congress, containing the essential proposals and practices. This would go beyond useless generalities like "support honest budgeting" to spell out specific requirements such as "vote to sustain points of order against budget resolutions containing unspecified savings or obviously unrealizable program changes."

- *Action Two:* Individually invite every member of Congress to publicly subscribe to this credo. A "Dear Colleague" letter from respected and influential senior members of both parties urging other members to get on board would be very helpful.

UNACCOUNTABLE CONGRESS

• *Action Three:* Mobilize its influential membership in the home districts of signers to offer political support and approbation to the signers for taking this important commitment—and put the heat on those who won't take the pledge, through personal communications, letters to the editor, etc. The goal, however, would not be punishment so much as inspiration to get on board. Members of this action group might include accounting, political science and law students at colleges around the country.

• *Action Four:* Organize a Truth in Government Caucus in Congress, which would meet occasionally to review current budgetary gimmicks and plan a legislative strategy for defeating them. It would also educate members on honest accounting, budgeting and financial management proposals emanating from the Comptroller General, the Inspectors General, the Controller and the agency CFOs, and professional groups like the Government Accounting Standards Board, the Association of Government Accountants, and the American Institute of CPAs.

• *Action Five:* When some unconscionably dishonest budget or accounting gimmick makes its appearance, mobilize citizens to oppose it by pressuring Congress directly and through the news media. Similarly, organize expert testimony and public support for needed improvements in budgeting and financial management, especially including the Comptroller General's reports, which are little noticed outside of Washington (and all too often ignored inside).

• *Action Six:* Create an ongoing and knowledgeable "Shadow Budget Committee" to prepare annual reports on progress in budgeting honesty, just like Freedom House's annual reports on the progress of freedom around the world. There is already a "Shadow Open Market Committee," which critiques the Federal Reserve System's open market operations, and a "Shadow Financial Regulatory Committee," which keeps track of the financial regulators as they confront the S&L and commercial bank crises.

• *Action Seven:* Lavish honors on those members of Congress, Inspectors General, GAO officials and others who have done good works for this cause. A well-publicized award to a member of Con-

Cutting the Card

gress as a "Champion of Honest Budgeting" will be much appreciated when he or she seeks reelection—especially when local citizens write letters to the editor reminding the public that "Congressman Jones won a coveted award for insisting that we be told the truth about how Congress spends our money." (Take it from me: Congressmen are extremely grateful for such spontaneous commendation in the news media!) On the flip side, announcing "Budget Cheater of the Year" awards to Congress' worst performers ought to cause a lot of discomfort among the malefactors.

Citizens can improve government if their concerns are carefully and shrewdly acted upon. The ideas mentioned above are aimed at Congress, but a similar program could be developed for citizen budget watchers in states, counties and cities across the country. Indeed, there are some taxpayers' associations and state public policy institutes which have moved or are moving in this direction.

When I speak on this subject I often use a small but potent story to emphasize the need for acting now: "A frog was put into a tank of water at room temperature. Then the water temperature was raised ever so slightly each day. Each day the frog noticed little difference from the day before, but eventually, the frog boiled to death. It didn't know enough to jump out! That's about what Congress is doing to the American people by its mishandling of the budget and financial management systems of government. It is steadily boiling us in a stew of cooked numbers." **The penalty for complacency, like that of the frog, grows larger and more dangerous every day—as does the bill our children will have to pay if we fail to act. Isn't it about time we hopped out of the tank—and got control of the heat—before it's too late?**

Earlier in this book I described "The Most Expensive Credit Card in the World." If members of Congress are going to have the use of such a card, the people must demand that it be used honestly. For those members of Congress determined to keep using their card irresponsibly, fudging the numbers, and covering up the hard truth from the people, there is only one solution: the people must take back their cards—permanently.

The time has come. We, the people, owe it to ourselves and to the America we love, to act—and to act *now*.

TRUTH IN BUDGETING AND ACCOUNTING

An AGA Emerging Issues Report

June, 1992

The United States government budgets, controls and directs cash resources in excess of \$1.4 trillion dollars each year. Yet at a time when Congress must make important decisions on future budget priorities and commitments, the information necessary to make those decisions is woefully defective. Weak government-wide budgeting and accounting systems produce insufficiently reliable information about how the government spends its funds and how decisions made today will affect tomorrow's taxpayers.

Further, the Congressional budgeting process commonly relies upon imaginary revenues, ignores unfunded obligations, and makes use of numerous other practices lacking economic and accounting reality.

The Federal government badly needs major budgeting reforms. Despite some recent steps in this direction by Congress and the Executive Branch, much remains to be done. This Task Force recommends these further steps:

1. ADOPT SOUND ACCOUNTING AND BUDGETING PRINCIPLES AND STRENGTHEN THE CFO POSITION

While the Budget and Accounting Act of 1950 required the Comptroller General to prescribe the principles and standards for accounting to be observed by each agency (i.e., generally accepted accounting principles (GAAP)), there were no specifically defined principles for the government to use.

(a) The Need for GAAP

The absence of meaningful accounting principles leaves the government using an accounting system which emphasizes cash flow, even though major new financial commitments are made and new liabilities incurred. Payroll checks and payments of accounts are moved from one fiscal year to another to manipulate deficit reduction targets. No acceptable accounting is made for government guarantees of private economic transactions, such as savings and loan deposit insurance, which may go bad and require government outlays. Nor is any acceptable accounting made for accrued leave and future pension payments to retirees, which are earned but not disbursed today.

In October 1990, a breakthrough agreement was reached on the creation of a Federal Accounting Standards Advisory Board (FASAB) to define GAAP for the federal government. The Board is composed of representatives from OMB, GAO, Treasury, CBO, Defense, domestic agencies, and the private sector. To date FASAB has agreed on a mission statement, interim financial standards, and its first exposure draft on financial resources.

FASAB must work expeditiously to agree on a set of Generally Accepted Accounting Principles for Federal government operations. Such principles will likely require the

use of an accrual basis of accounting, including realistic treatment of all unrecorded and contingent liabilities.

The benefits in using GAAP for Federal financial reporting include:

- Stimulating awareness among program managers of the causes and consequences of financial management problems and focusing management attention in solutions.
- Comparing consistent-format reports over several years, thus revealing trends and performance comparisons, thus increasing understanding of program performance by Congress, the Executive Branch, the media and the public.
- Improving confidence in the financial management of agency programs.

(b) *Integrating Budget and Accounting Standards*

Under the CFO Act, audited financial statements are due nine months after the end of a fiscal year. Budget formulation usually begins as much as 18 months (if not more) before the beginning of a fiscal year. Thus the life span from budget initiation to final accounting is usually as long as four years. Because of this long time span, final accounting occurs far too late to have any impact on misleading budget practices which occurred many months earlier in the process. We encourage the FASAB (in conjunction with OMB and the CFO) to develop and administer budgeting standards consistent where possible with FASAB accounting standards and require audit oversight for compliance during the budget formulation and execution stages, so that unsupportable budget requests can be identified at a point in time when corrective action can most effectively be taken, and when misleading or manipulative budget practices can be eliminated.

FASAB principles should clearly prohibit such notorious budget gimmicks as off budget expenditures and "savings to be realized later". The Budget Enforcement Act should be amended to allow a point of order to be made in either the House or Senate whenever any such deceptive practices appear in budget resolutions.

(c) *Strengthening the Chief Financial Officer System*

The Chief Financial Officers appointed in each agency pursuant to PL 101-576 should be professionally competent in applying the budgeting and accounting standards established by the FASAB. The CFOs should be subject to the same high-level performance qualifications required of the Deputy CFOs. (The statute required high-level professional qualifications only for the Deputy CFOs). The CFOs must be given the full support of the President and Office of Management and Budget.

2. **ADOPT SEPARATE BUDGETS FOR GENERAL FUNDS, TRUST FUNDS AND GOVERNMENT-SPONSORED ENTERPRISES (GSEs)**

Under present budgeting practice, activities as diverse as the National Park System, Social Security, NASA, food stamps, weapons purchases, home mortgage insurance, and the Export-Import Bank are lumped together in one budget document, even though the activities are vastly different. Some expenditures are made every year from annual

receipts; other activities are supposedly based on actuarial considerations; yet others are commercial operations similar to private business.

In October 1989, the Comptroller General proposed that the Federal government should account and report separately for general funds, trust funds and government-sponsored enterprises, instead of treating all three as economically equivalent. Under such a reporting plan, trust fund surpluses (notably those of Social Security) could no longer be used to reduce deficits in the General and GSE parts of the budget. These GSEs could be run more like business enterprises, without the constant threat of fiscal demands driven by a political need to show a smaller "budget" deficit. Overall, such tripartite reporting would give Congress and the public a far more accurate picture of the Federal government's spending activities.

3. ADOPT EFFECTIVE CAPITAL BUDGETTING

Capital budgeting is a financial process used to plan and control long-term capital expenditures. It is not currently used by the federal government, although the federal government each year allocates tens of billions of dollars to acquire such assets as buildings, space satellites, weapons systems, and other capital items with a useful life longer than one year.

Private sector firms use capital expenditure planning and budgeting to provide for the assets needed to support corporate activities on an ongoing basis, not just for the current fiscal year, and for their replacement at the end of their useful life. While there are difficulties in the accounting treatment of certain government-owned capital assets (notably weapons), some acceptable, independently sanctioned form of capital budgeting should be put in place in every agency at the earliest possible time.

4. ADOPT BIENNIAL BUDGET CYCLES

A two-year budget cycle, corresponding to a Congressional term of office, would require Congress to authorize spending only once in two years. Since about 60 percent of votes in Congress are budget related, stretching the process over two years would leave a great deal of time for badly needed program oversight. In the second year of the cycle, Congress would only have to pass appropriations bills carrying out the terms of the previous year's budget resolution. The adoption of this reform must be accompanied by strict discipline so that supplemental budget amendments and appropriations bills are not used to augment the basic budget decisions in the first year of the cycle.

5. MAINTAIN THE BUDGET ENFORCEMENT ACT (BEA)

The Budget Enforcement Act of 1990 established new standards for disciplining the budget adoption and management process. If discretionary spending in any of three categories (defense, international, domestic) exceeds the Act's target as of October 15 (at the beginning of a fiscal year), an automatic sequester is applied to that category. Additional compliance reports, which could trigger sequestration orders, are required during the budget year. While not foolproof, the BEA requirements are a useful beginning toward greater discipline in budgeting procedures, and should be strictly observed. Efforts by Congress to override the BEA requirements to benefit favored programs constitute a backward step from necessary budgetary discipline.

6. PUBLICIZE THE TRUE FINANCIAL CONDITION OF THE FEDERAL GOVERNMENT

While the Treasury's Financial Management Service (FMS) has made important steps forward in recent years in presenting the state of the nation's finances, the absence of meaningful accounting principles and capital budgeting, the complexity of the often inconsistent information collected through the many different accounting systems used by the federal agencies, and the inaccessibility of reports, has made the FMS statement of interest only to financial specialists.

A concise, independently-audited GAAP-consistent report on the operation and financial condition of the U.S. government, including its revenues, expenditures, assets, and liabilities, ought to be made readily available to the public and news media. Consideration should be given to including more extensive information as part of the brief summary report included at the beginning of the annual 1040 individual income tax forms and instructions package distributed to all taxpayers each January.

AGA Truth in Budgeting and Accounting Task Force

Joseph J. DioGuardi, Chairman
Member of Congress, 1985-88

Roger B. Feldman
Former Comptroller, Department of State

John H. Hummel
Audit Partner, KPMG Peat Marwick

Clyde G. McShan, II, Director, National Finance Center
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Allen L. Reynolds, City Auditor
City of Baltimore, Maryland

Richard J. Schwartz, President
David Schwartz Foundation

W.T. Wrege, Associate Professor of Accounting
Ball State University

Note: The Chairman wishes to acknowledge a grant from the Stefano LaSala Foundation, Inc. which enabled the Task Force to complete its work and finalize this report.

STATEMENT OF FRANK HORTON
BEFORE THE JOINT COMMITTEE ON THE
ORGANIZATION OF CONGRESS

JUNE 29, 1993

IT IS A GREAT HONOR FOR ME TO APPEAR BEFORE THE JOINT COMMITTEE AND I AM HERE AS A PRIVATE CITIZEN. I COMMEND THE COMMITTEE AND WANT TO WISH YOU THE BEST OF LUCK IN UNDERTAKING AN EXTREMELY DIFFICULT TASK. AS YOU KNOW, I SERVED IN THE HOUSE OF REPRESENTATIVES FOR THIRTY YEARS, FROM 1963 TO 1993.

I SERVED WITH FOUR MINORITY LEADERS DURING MY TENURE IN THE HOUSE, AND WITH FIVE SPEAKERS AND SEVEN PRESIDENTS. DURING THOSE YEARS, I SERVED ON THE COMMITTEE ON GOVERNMENT OPERATIONS, THE POST OFFICE AND CIVIL SERVICE COMMITTEE, AND BRIEFLY ON THE COMMITTEE ON SMALL BUSINESS. I ALSO SERVED AS THE CHAIRMAN OF THE NEW YORK BIPARTISAN CONGRESSIONAL DELEGATION; DEAN OF THE NEW YORK STATE REPUBLICAN DELEGATION; FOUNDER AND COCHAIRMAN OF THE NORTHEAST-MIDWEST CONGRESSIONAL COALITION; VICE CHAIRMAN OF THE SELECT COMMITTEE ON PROFESSIONAL SPORTS; CHAIRMAN OF THE FEDERAL

PAPERWORK COMMISSION; AS A MEMBER OF THE NORTH ATLANTIC ASSEMBLY; MEMBER OF THE PROCUREMENT COMMISSION; MEMBER OF THE U.S. - CANADA INTERPARLIMENTARY GROUP; AND AS A MEMBER OF THE JOINT COMMITTEE ON ATOMIC ENERGY.

I KNOW THIS COMMITTEE HAS HEARD A WIDE RANGE OF TESTIMONY AND SUGGESTIONS ABOUT HOW TO INCREASE THE EFFECTIVENESS AND EFFICIENCY OF CONGRESS. BEING COGNIZANT OF YOUR TIME CONSTRAINTS, I WANT TO CONFINE MY REMARKS TO MY PARTICULAR AREAS OF EXPERTISE REGARDING COMMITTEE JURISDICTION AS IT APPLIES TO MY FORMER COMMITTEE ASSIGNMENTS. MY TWO PRIMARY LEGISLATIVE RESPONSIBILITIES WERE AS RANKING MINORITY MEMBER OF THE HOUSE GOVERNMENT OPERATIONS COMMITTEE, AND AS THE SECOND RANKING MEMBER OF THE POST OFFICE AND CIVIL SERVICE COMMITTEE. I SERVED MY ENTIRE 30 YEARS IN CONGRESS ON THE GOVERNMENT OPERATIONS COMMITTEE AND THE LAST 20 AS THE RANKING MINORITY MEMBER. I SERVED 8 YEARS ON THE POST OFFICE COMMITTEE.

I KNOW YOU PREVIOUSLY HEARD TESTIMONY FROM THE CHAIRMAN OF THE POST OFFICE AND CIVIL SERVICE COMMITTEE, REPRESENTATIVE BILL CLAY. THE CHAIRMAN'S STATEMENT FULLY DOCUMENTS THE

ACTIVITIES AND RESPONSIBILITIES OF THE COMMITTEE. I WILL NOT DUPLICATE HIS WORDS BUT WOULD ASK THAT WHEN YOU ARE CONSIDERING COMMITTEE CONSOLIDATION, YOU INCORPORATE MY PERSPECTIVES WITH THOSE OF MR. CLAY'S. IT IS A REASONED, RESPONSIBLE ACTION FOR THE JOINT COMMITTEE TO CONSIDER COMMITTEE CONSOLIDATION DURING ITS DELIBERATIONS; HOWEVER, MY EXPERIENCE INDICATES THAT COMBINING THE POST OFFICE COMMITTEE WITH THE GOVERNMENT OPERATIONS COMMITTEE IS NOT FEASIBLE.

THE GOVERNMENT OPERATIONS COMMITTEE HAS THE WIDEST JURISDICTION OF ANY COMMITTEE IN THE HOUSE. THIS EXTREMELY BROAD JURISDICTION RESULTS IN THIS COMMITTEE BEING SOMEWHAT OVERBURDENED AND ITS MEMBERS TIME SPREAD TOO THIN. WHILE ITS LEGISLATIVE JURISDICTION CAN BE CONSIDERED LIMITED, THE GOVERNMENT OPERATIONS INVESTIGATIVE POWERS REQUIRE THAT IT REVIEW AND STUDY, ON A CONTINUING BASIS, THE OPERATION OF GOVERNMENT ACTIVITIES AT ALL LEVELS TO DETERMINE THEIR ECONOMY AND EFFICIENCY. IN OTHER WORDS, IT HOLDS THE IMMENSE RESPONSIBILITY OF FERRETING OUT WASTE, FRAUD AND ABUSE THROUGHOUT THE ENTIRE FEDERAL GOVERNMENT. NORMALLY THE FINDINGS OF ANY COMMITTEE INVESTIGATION ARE MADE AVAILABLE

TO THE OTHER STANDING COMMITTEE OR COMMITTEES HAVING JURISDICTION OVER THE MATTER INVOLVED. I BELIEVE ALL MEMBERS UNDERSTAND THE IMPORTANCE OF AMBITIOUS, AGGRESSIVE, AND RESPONSIBLE CONGRESSIONAL OVERSIGHT OF THE EXECUTIVE BRANCH. ANY REFORM ENACTED MUST PROTECT THE OVERSIGHT FUNCTION OF CONGRESS THAT HAS EXISTED FOR OVER 170 YEARS.

IN ADDITION TO BEING THE CHIEF INVESTIGATIVE COMMITTEE OF THE HOUSE, GOVERNMENT OPERATIONS ALSO HAS LEGISLATIVE JURISDICTION OVER THE OFFICE OF MANAGEMENT AND BUDGET, THE GENERAL ACCOUNTING OFFICE, THE GENERAL SERVICES ADMINISTRATION, THE NATIONAL ARCHIVES, AND A WIDE RANGE OF GOVERNMENT MANAGEMENT ACTIVITIES. GOVERNMENT MANAGEMENT ACTIVITIES INCLUDE: EXECUTIVE BRANCH REORGANIZATION, FEDERAL PROCUREMENT, ACCOUNTING AND AUDITING PRACTICES, ACCESS TO AND USE OF GOVERNMENT INFORMATION, AND GENERAL REVENUE SHARING. THE FREEDOM OF INFORMATION ACT, THE PAPERWORK REDUCTION ACT, THE CHIEF FINANCIAL OFFICERS ACT, THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT, THE BUDGET ENFORCEMENT ACT, CREATION OF THE OFFICE OF THE NATIONAL DRUG CONTROL POLICY (DRUG CZAR), ESTABLISHMENT OF THE INSPECTORS GENERAL, AND THE COMPETITION IN CONTRACTING ACT ARE ONLY A FEW OF THE

LEGISLATIVE INITIATIVES ORIGINATED IN THE COMMITTEE AND THE SUBJECT OF CONTINUING OVERSIGHT BY THE COMMITTEE.

MY OTHER LEGISLATIVE FOCUS IN CONGRESS WAS MY WORK ON THE POST OFFICE AND CIVIL SERVICE COMMITTEE. I UNDERSTAND THAT YOU HAVE HEARD TESTIMONY THAT THE POST OFFICE COMMITTEE SHOULD BE CONSOLIDATED INTO THE COMMITTEE ON GOVERNMENT OPERATIONS AND RELEGATED TO SUBCOMMITTEE STATUS. I AM STRONGLY OPPOSED TO THIS PROPOSAL. IN MY OPINION, COMBINING THE RESPONSIBILITIES WOULD PROVE UNWIELDY AND EACH COMMITTEE'S PRESENT EFFICIENCY WOULD BE SUBSTANTIALLY DIMINISHED.

THE POST OFFICE COMMITTEE HAS COMPLETE OVERSIGHT JURISDICTION OF THE UNITED STATES POSTAL SERVICE, THE POSTAL RATE COMMISSION, THE BOARD OF GOVERNORS OF THE POSTAL SERVICE, THE FEDERAL CIVIL SERVICE, INCLUDING THE COMPENSATION, RETIREMENT, AND OTHER BENEFITS OF FEDERAL EMPLOYEES. THE POSTAL SERVICE EMPLOYS OVER 700,000 WORKERS AND HAS MORE THAN 40,000 POST OFFICES ACROSS THIS COUNTRY. AND I MIGHT ADD A MAJOR PRESENCE IN EACH AND EVERY CONGRESSIONAL DISTRICT. OVER 2.3 MILLION CIVILIANS WORK FOR THE FEDERAL GOVERNMENT, WHICH CONSTITUTES

THE NATION'S SINGLE LARGEST WORKFORCE. IN ADDITION, THE CENSUS AND THE COLLECTION OF STATISTICS FALL UNDER THE COMMITTEE'S JURISDICTION. THE PROPER USE OF THE FRANKING PRIVILEGE BY MEMBERS OF CONGRESS ALSO FALLS WITHIN THE PURVIEW OF THE POST OFFICE COMMITTEE.

THE POST OFFICE COMMITTEE HAS A GREAT DEAL OF EXPERTISE WITH THE HIGHLY TECHNICAL AREA OF POSTAL RATES, POSTAL REGULATIONS AND THE RELATIONSHIP BETWEEN THE MANAGEMENT OF THE POSTAL SERVICE, THE BOARD OF GOVERNORS, AND THE POSTAL RATE COMMISSION. THIS IS IN ADDITION TO THE COMPLICATED AND PRICKLY AREAS OF EMPLOYEE PAY, RETIREMENT AND HEALTH BENEFITS.

THE DIVERSITY OF THE POSTAL COMMUNITY INCLUDE SUCH VARIED INTERESTS AS: POSTAL EMPLOYEES, USERS OF THIRD CLASS MAIL, USERS OF SECOND CLASS MAIL, POLITICAL MAILERS, DIRECT MARKETERS, NONPROFIT MAILERS, AND WHAT POSTAL PEOPLE REFER TO AS THE "AUNT MINNIE" MAILER. SUCH A DIVERSE GROUP ALL HAVE A VESTED INTEREST IN THE CONTINUATION OF THE POST OFFICE COMMITTEE AS A FULL COMMITTEE. IT IS NEARLY IMPOSSIBLE TO REACH CONSENSUS ON ISSUES THAT AFFECT ALL THESE GROUPS, THIS OF COURSE HELPS US TO UNDERSTAND THE CHARGE THAT THE COMMITTEE IS IN SOME WAY THE

CAPTIVE OF A "SPECIAL INTEREST" IS NOT A LEGITIMATE ASSERTION. IN FACT THE POST OFFICE COMMITTEE HAS OFTEN FOUGHT OFF ATTEMPTS BY OTHER COMMITTEES TO CHANGE THE NATION'S CIVIL SERVICE LAWS TO SERVE SOME PAROCHIAL INTEREST. BY STOPPING PREVIOUS PIECEMEAL ATTEMPTS BY OTHER COMMITTEES TO RAISE THE PAY OF SELECT GROUPS OF INDIVIDUALS, THE POST OFFICE COMMITTEE WAS ABLE TO PASS THE COMPREHENSIVE FEDERAL EMPLOYEES PAY COMPARABILITY ACT IN 1990.

THANK YOU FOR THE OPPORTUNITY TO APPEAR, I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.

#

Testimony
of
Joseph J. Gimelli

Reporting and Transcribing
Congressional Committees

Private Enterprise
vs
Government Employees

June 29, 1993
before
The Joint Committee on
The Organization of
Congress

Members of the Committee: Congress and the Administration are presently grappling with the enormous task of reducing the Federal deficit. This can be accomplished in only two ways: 1) Increase taxes; or 2) Reduce expenditures. Surely no one will disagree that the emphasis should be placed on reducing expenditures. Increasing taxes can be a hazardous undertaking.

As you will note in my very brief summary which has been submitted to you, I have been involved in the business of court and Congressional reporting for more than 58 years, and I have also served as consultant to the Administrative Office of the U.S. Courts, the Federal Judicial Center, and a number of court administrators nationwide.

The reason for my appearance before you today is to make a recommendation which will not only achieve huge savings but, in the process, will add substantial amounts to the U.S. Treasury.

My recommendation? Eliminate the Office of Official Committee Reporters.

This office is currently staffed with the following employees, and here I call your attention to a chart entitled The True Cost of the Office of the Official Committee Reporters.

10 stenotypists, average salary of \$68,725, for a total of \$687,250;

10 transcribers, average salary of \$43,788, for a total of \$437,880;

6 clerical personnel, average salary of \$40,278, for a total of \$241,668;

5 recording technicians, average salary of \$45,000, for a total of \$182,000.

This comes to a total of \$1,548,798.

The figures I just recited to you are listed in the publication entitled "Report of the Clerk of the House, October 1, 1992 to December 31, 1992." Since that time they have replaced three of the recording technicians earning an average salary of \$45,000 with three stenotypists at an average salary of \$68,725.

In addition to the above costs for reporting and transcribing, these employees are furnished free office space, free parking, telephones, all supplies and equipment, medical coverage, and other benefits.

Another very important fact to consider. When the official reporters and transcribers retire, as well as all the other employees of this office, they begin receiving a retirement annuity amounting to 50% to 80% of their highest three-year income. And, when new reporters and transcribers are hired to replace the retirees, these new salaries must be added to the amounts received by the retirees in order to arrive at the actual cost of producing each page of transcript.

Some retirees have been receiving their annuity for more than 25 years. In most cases, after a period of ten years, the annuity far exceeds the highest yearly income earned **during the retirees' employment**. Although employees contribute to their retirement fund over the years, the amount of their contribution is consumed in less than three years.

Here I can cite myself as an example. I retired as an official committee reporter at the end of 1974, at which time my salary was \$32,400. My yearly annuity is more than \$12,000 above the amount I received during my employment. Add to that survivor benefits, for which I opted at the time.

Next I would like to draw your attention to Chart #2, a comparison of costs between the office of official reporters and private industry.

Shown at the left of this chart are costs of official reporters as employees:

Direct salaries only - \$16.00 per page.

Office space - they have half of an entire corridor on the seventh floor of the Longworth Building plus two large rooms in the Cannon House Office Building.

Hardware and equipment is shown as \$1.5 million. And this is merely a recent expenditure. It does not add other costs spent over past years.

Retirement I have already discussed.

Standard government benefits - \$450,000 a year, and this is an OMB estimate.

This brings the total cost per page to a staggering \$45.00.

Now contrast this to what is shown at the right of this chart. It's really quite a contrast:

No additional cost.

No additional cost.

No additional cost.

No additional cost.

Total cost per page a mere \$5.10.

At this point I have a recommendation to make. Before the present bidding procedure was instituted - and this bidding procedure is meaningless inasmuch as awards are not made in accordance with the lowest bid but at the whim of an aide to the Clerk of the House and the Chief Reporter - the House paid the private reporters legislated rates which are already in place. My recommendation - pay the private reporters in accordance with these legislated rates.

Here I might cite a difference regarding the manner in which reporters are paid by the House as opposed to the manner in which they are paid by the Senate. When a Senate committee is assigned to a reporter, in the event there are transcript sales, the amount paid for those sales goes to the reporter. On the House side any monies received from transcript sales go to the U.S. Treasury.

In conclusion, it is my recommendation that the staff director of each committee, with the approval or by the direction of the chairman, appoint the reporting firm best qualified to serve the needs of the committee. Certainly that staff director and the chairman are in the best position to evaluate the quality of the service they receive. This would effect a vast improvement over the quality of work and service many of these committees now receive, a situation where they now have no voice regarding the firm assigned to them. In fact, I have long suspected that the official reporters deliberately assign firms whose work leaves much to be desired so that they look good by comparison.

There is no question about the fact that producing a quality product for hearings on Capitol Hill requires unusual skill, particularly in language and comprehension. These hearings cannot be assigned to a reporter merely because he or she may have done court and deposition work. With my having trained hundreds of reporters, having had my own stenotype school in Boston in 1940, I am very well aware of what it takes to produce quality work. On average, before I hire a transcriber to work in my office, I go through an average of 35 to 40 people. Those who do not qualify I send elsewhere.

Following my recommendation, then, along with the selection of the firm to be made by the chairman and his staff director, I would suggest that, unlike the procedure followed by the Senate, transcript sales go to the U.S. Treasury. With this arrangement, the only employee the House would need is a clerk to handle these transcript sales. These transcript sales would pay the clerk's salary many times over, leaving a considerable amount for the U.S. Treasury.

In anticipation of the response you might expect from the Office of the Clerk and the official reporters, they will argue that in-house capability is required to cover hearings of a classified nature. Are the requirements of that type of hearing in the House different from those in the Senate? The Senate has no office of official reporters as employees, and I am unaware of their ever having encountered any problem.

And, lest some might feel it would create a hardship for the officials if they were let go, among my inserts is an advertisement contained in the magazine of the National Court Reporters Association where they guarantee stenotype reporters a minimum of \$75,000 a year. It is my understanding that at a time of hiring additional stenotypists as official reporters the Clerk of the House is told this is what they can earn working in downtown Washington, this in order to justify the salaries they are being paid.

I have submitted a number of inserts which I feel provide important background information as well as other matters which I feel will be of interest to you and your staffs.

Just one final note. For the past several years the operation of my office has been turned over completely to my son Jay, with whom most of you are acquainted, and a very capable and dedicated office manager, Mr. John Vos. When I informed Jay of my intention to appear before your committee, his reaction was one of total shock. Because of the manner in which the Office of Official Reporters is managed his apprehension is understandable. He fully expects that there will be repercussions against his office as a consequence of my appearance. However, I feel it is time to expose the manner in which this office operates and why it should even continue in being.

I thank you for allowing me the privilege of appearing before you. Should you have any questions, I shall be pleased to respond to the best of my ability.

GIMELLI, Joseph J.
SSN: 068-05-3261

Brief background of work experience:

- 1936: Grand Jury reporter, Southern District of N.Y.
- 1937-1940: Free-lance reporter, working mostly on hearings before the National Labor Relations Board, Federal Trade Commission, Interstate Commerce Commission and the Tax Court. During this span I reported in excess of 130,000 pages, including many of the above agencies' most important cases.
- 1940-1945: Operated my own secretarial school and reporting company in Boston, Massachusetts. In 1941, established a world's speed record of 375 words a minute, a record which still stands.
- 1945-1951: Operated my own national reporting company, during which time I held reporting contracts with most of the major independent agencies -- National Labor Relations Board, Federal Power Commission, Federal Communications Commission, National Mediation Board, Tax Court, and others.
- 1954-1974: Official Reporter to Committees, House of Representatives, serving as Chief Reporter for last six years of my tenure.

Various other duties performed during the past 20 years include:

- Recruiting and training of reporters and transcribers for the National Reporting Council. This council was comprised of the major reporting companies in Washington.
- Consultant to the Administrative Office of the U.S. Courts and the Federal Judicial Center on matters of court reporting. My last assignment for these organizations was to prepare representative examinations for those seeking reporting positions in District Court, as well as the preparation of a report describing the functions and duties of official court reporters -- this report serving as a guide to judges and court administrators.

**Transcript Production
For
The U.S. House of
Representatives**

The office of the Official Reporters was originally established as a small service organization to assist independent reporting firms provide daily transcript delivery for the Committee on Appropriations. It started with four reporters and four transcribers. In later years, when some Members sought an office where they could find permanent jobs for people they wanted to help, Congress created more openings. Despite objections from several Members in the Committee on House Administration, the number of reporters was increased to six, and several years later to eight. A transcriber is also provided for each stenotypist. In other words, when you employ a stenotypist you also need to hire a transcriber, thereby increasing the number of employees to sixteen.

In the late sixties, this number was increased to 10. However, at this time there was some justification for this action. The private firms responsible for producing transcripts could not hire enough competent reporters to cover the peak Congressional periods. The tremendous demand for reporters by various independent agencies made it impossible to hire a competent staff to handle this large volume of work which was generated during these few months.

Two reasons created this temporary shortage of competent reporters: first, the only way hearings were reported was with reporters who either wrote shorthand or used the stenotype machine. The skills required to write at the speeds necessary limited the availability of capable people. Second, the number of congressional hearings peaked for only four months. Even if the firms were able to supply the number of reporters required for this peak period, they would be unable to provide them with employment for the balance of the year.

This is no longer the case. With the advent of electronic recording and transcription produced on computers rather than typewriters, there is an abundance of personnel in the private sector. Work taken by a recording technician is likely to be more accurate than that done by a stenotypist, most of whom have serious speed and language comprehension limitations.

In 1978 the Office of the Official Reporters was put under the jurisdiction of the Clerk of the House rather than the Speaker. At that time the Office of the Clerk, under Ben Guthrie and Tom Ladd, saw the advantage of utilizing electronic recording, and, in addition to the ten stenotypists, hired five recording technicians who did their own transcribing. These people received less than half the salaries paid the stenotypists even though their work was generally superior. The intention was to ultimately replace the stenotypists with recording technicians.

Contrarily, the present Clerk and the Office of the Official Reporters intend to immediately replace retiring recording technicians with stenotypists because, in their own words, "it looks more professional." This totally disregards the fact that these stenotypists produce inferior work and still are paid about three times more than the recording technicians. (The incomes of the stenotypist and his transcriber have to be combined inasmuch as they work as a team.)

If the official reporters and transcribers on the House payroll produced the same volume of work for a private firm as they now produce for the House, they would earn approximately 25% of their present income. In addition, they would have to pay for their own equipment, telephone and office expense.

A competent recording technician now employed by a commercial company receives a top rate of one dollar per page. The transcriber for the recording technician receives an average of \$2.30 per page. The combined cost per page, then, is \$3.30. If these persons produced 10,000 pages a year between them they would earn \$33,000. This number of pages far exceeds the number of pages presently produced by any stenotypist and his transcriber now on the payroll of the House.

The House stenotypist receives an average of \$68,722 a year. His transcriber earns an average of \$43,788 a year, so between them they earn \$112,510 a year, for an average per page cost of \$11.25. Added to this must be the supplies, equipment, telephone, office space, medical coverage and the other benefits they receive. Bearing in mind that because these earnings are made only during the time Congress is in session, this allows the House employee a substantial period of free time.

The Congressional session is not a year-round affair. As a consequence, the official reporters have a great deal of free time during holiday breaks, the August recess, and the time between adjournment and the new session. Many of the reporters and transcribers utilize this time to work for commercial firms, and in this way considerably enhance their total earnings.

Another very important fact to consider. After the official reporters and transcribers retire, they commence receiving a retirement annuity amounting to 50% to 80% of their highest three-year income. And, when new reporters and transcribers are hired to replace the retirees, these new salaries must be added to the amounts received by the retirees in order to arrive at the actual cost of producing each page of transcript.

Some retirees have been receiving their annuity for more than 25 years. In most cases, after a period of ten years, the annuity far exceeds the highest yearly income earned during the retirees' employment.

Although employees contribute to their retirement fund over the years, the amount of their contribution is consumed after less than three years.

Thus, it follows that eliminating the committee reporters as House employees would save millions of dollars a year and put an end to the accumulation of large sums paid to retirees for long periods after they leave.

The question which now arises is: does the House need these official reporters at all, especially as employees? The Senate has never hired committee reporters as employees. All of its committee work is done by private reporting firms, and at tremendous savings.

The entire structure of the Office of Official Reporters to Committees and its working relationship to commercial firms is flawed. As the House rule is now written, the commercial firms are assigned only that work which the Official Reporters cannot or will not, for any reason they see fit, handle. It is therefore impossible for the commercial firm adequately to plan for the volume of work they might be called upon to perform. Add to this the fact that during this short peak period their staffs are stretched to the limit, so during long periods of time when the number of hearings declines, they cannot utilize the services of people who were so desperately needed during the peak period.

Assignments of committees are now made by an aide to the Clerk of the House, advising with the Chief and Deputy Chief in the Office of Official Reporters. This is a very undesirable arrangement which is fraught with potential abuse. Despite the fact that committees are bid by the Office of the Clerk, acting on the advice of the Chief and Deputy Chief in the Office of the Official Reporters they can assign committees to any firm or individual they wish. If it is suspected that they favor friends with whom they previously worked or firms started by people who worked for them, their records are not open for inspection, so it is difficult to check potential abuses. Invitations to bid are also given to firms in the area which have had little or no experience in committee reporting.

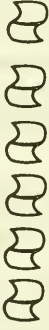
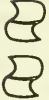
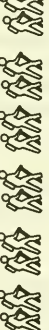
In still another area, the Office of the Clerk is influenced by the Chief Reporter, a person who has no background whatever in managing his own business, to invest 1.5 million dollars on new state-of-the-art equipment which they cannot utilize -- and which does not speed up production of transcripts. In fact, in practically all cases, it hampers expeditious delivery, and in most cases it results in an inferior product.

Conclusion: The office of the Official Reporters to Committees should be eliminated.

The staff director of each committee, with the approval of, or by direction of, the chairman should appoint the reporting firm he feels is best qualified to serve the needs of his committee. They are in the best position to evaluate the quality of the service they receive.

The only employee the House would need is a clerk to handle the transcript sales. The proceeds from transcript sales would go to the U.S. Treasury. In this way, a substantial sum of money is earned by Government and needless waste is eliminated.

Comparison of Costs Between Official Reporters & Private Industry

Official Reporters		Private Company	
Direct Salaries Only			
	\$15.50 per page		\$5.10 per page
Additional Costs		Additional Costs	
Office Space			
	Exact Cost Unavailable	No Additional Cost	
Hardware and Equipment			
	\$1.5 Million	No Additional Cost	
Retirement			
	50 - 80 % Highest 3- yr. Salary	No Additional Cost	
Standard Government Benefits			
	\$450,916 Per Year (OMB est.)	No Additional Cost	
Total Cost per-page		Total Cost per-page	
Approximately \$45.00 per page		\$5.10	

Washington Watch

Looking for ways to make government more efficient

May, 1993

Published by Washington Watch, 2881 SE 20th Ave, Gainesville, FL 32601

Would You Pay \$15.50 for a \$5 Transcript?

Cut Costs & Improve Efficiency

Everyone wants to cut government, but how does one cut expenses and increase efficiency? Replacing the Office of the Official Reporters to Committees with private sector businesses will do both - save money and increase efficiency. The Senate has always used only private reporting companies with great success and efficiency.

Private Business: Better & Less Expensive

If your boss asked you to purchase a widget with your money and you had two choices - one widget for \$5.10 or another for \$15, which would you choose? The House chose the \$15 widget, but then, it's not their money.

If you found that the \$15 widget came with hidden costs - costs that total more than what you originally paid, would you still purchase the more expensive widget? The House did, but then again, it's not their money.

If you found a widget for \$5.10 and another for \$15 and the \$5.10 widget was a better quality, which would you choose? The House chose the more expensive, lower quality widget, but then

	Single	Total Staff
The average yearly salary of House stenotype reporter is:	\$68,725	\$687,250
The average yearly salary of the transcriber is:	43,788	437,880
The average salary of the clerical staff is:	40,278	241,668
The average salary of the recording technician is:	45,000	<u>182,000</u>
Grand Total:		\$1,548,798

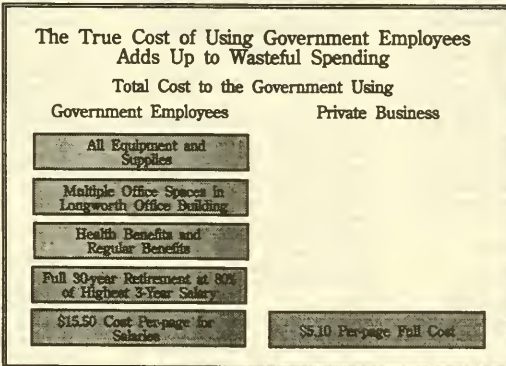
* Report of the Clerk of the House, 1992, p. 12-36

Government or Private: A Substantial Difference

The top diagram shows the salaries of the Office of the Official Reporters. The Official Reporters in a busy year will produce slightly under 100,000 pages. \$1,548,798 divided by 100,000 pages produces a page cost of \$15.50. The Official Reporters cost you even more. The \$15.50 price per page doesn't include the real hidden expenses which if added up come to about \$45 per page for a transcript. The true price (\$45.00) must include more than salary. It must include full retirement, regular government benefits, health coverage, office space, parking, full staff, free supplies and equipment.

The lower diagram compares the cost of using private sector reporting companies instead of the Official Reporters. Notice the added costs incurred when using the Official Reporters and the lack of additional costs using private Companies. The

Senate has been using private companies for years and found it cheaper, more efficient, and, if the Committee was not satisfied with the service, one phone call changed companies. -- something impossible to do in government.



again, it's not their money.

No private business could survive this way, yet we accept this behavior from our Government. This must change. The people want cuts - not higher taxes.

Times Have Changed; So Should Staff

The office of the Official Reporters was originally established as a small service organization to assist independent reporting firms provide daily transcript delivery for the Committee on Appropriations. It started with four reporters and four transcribers. In later years, when some members sought an office where they could find permanent jobs for people they wanted to help, Congress created more openings. Despite objections from several members in the Committee on House Administration, the number of reporters was increased to six, and several years later to eight. A transcriber is also provided for each stenotypist. In other words, when you employ a stenotypist, you also need to hire a transcriber, thereby increasing the number of employees to sixteen.

In the late sixties, this number was increased to 10. However, at that time there was some justification for this action. The private firms responsible for producing transcripts could not hire enough competent reporters to cover peak Congressional periods. The tremendous demand for reporters by various independent agencies made it impossible for private firms to hire a competent staff to handle this large volume of work generated during only these few months.

Two reasons created this shortage of competent reporters: First, the only way hearings were reported was with reporters who either wrote shorthand or used the stenotype machine. The skills required to write at the speeds necessary limited the availability of capable people. Second, the number of congressional hearings peaked for only four months. Even if the firms were able to supply the number of reporters required for this peak period, they would be unable to provide them with employment for the balance of the year.

If we are going to do better, we must take every opportunity to cut spending.

This is no longer the case. With the advent of electronic recording and transcription produced on computers rather than typewriters, there is an abundance of personnel in the private sector.

In 1978 the Office of the Official Reporters was put under the jurisdiction of the Clerk of the House rather than the Speaker. At that time the Office of the Clerk, under Ben Guthrie and Tom Ladd, saw the advantage of utilizing electronic recording, and, in addition to the ten stenotypists, hired five recording technicians who did their own transcribing. These people received less than half the salaries paid the stenotypists. The intention was to ultimately replace the stenotypists with recording technicians. Work taken by a recording technician is likely to be more accurate than that done by a stenotypist, most of whom have serious speed limitations.

The present Clerk and the Office of the Official Reporters intend to immediately replace retiring recording technicians with stenotypists. This totally disregards the fact that these stenotypists produce less accurate work and still are paid about twice as much as the recording technicians. (The incomes of the stenotypist and his transcriber have to be combined inasmuch as they work as a team.)

If the official reporters and transcribers on the House payroll produced the same volume of work for a private firm as they now produce for the House, they would earn approximately 25% of their present income. In addition, they would have to pay for their own equipment, telephone and office expense.

We Require the Executive Branch to Purchase on the Open Market. Why Not Congress?

A competent recording technician now employed by a commercial company receives a top rate of one dollar per page. The transcriber for the recording technician receives an average of \$2.30 per page. The combined cost per page is \$3.30. If these persons produced 10,000 pages a year between them they would earn \$33,000. This number of pages far exceeds the number of pages presently produced by any stenotypist and his transcriber now on the payroll of the House.

The House stenotypist receives an average of \$68,722 a year. His transcriber earns an average of \$43,788 a year, so between them they earn \$112,510 a year, for an average per page cost of \$11.25. Added to this must be the supplies, clerical staff, equipment, telephone, office space, medical coverage and the other benefits they receive. Bearing in mind that these earnings are made only during the time Congress is in session,

this allows the House employee a substantial period of free time. The Congressional session is not a year-round affair.

As a consequence, the official reporters have a great deal of free time during holiday breaks, the August recess, and the time between adjournment and the new session.

Another very important fact to consider. After the official reporters and transcribers retire, they commence receiving a retirement annuity amounting to 50% to 80% of their highest three-year income. And when new reporters and transcribers are hired to replace the retirees, these new salaries must be added in the amounts received by the retirees in order to arrive at the actual cost of producing each page of transcript. Some retirees have been receiving their annuity for more than 25 years. In most cases, after a period of ten years, the annuity far exceeds the highest yearly income earned during the retirees' employment. Although employees contribute to their retirement fund over the years, the amount of their contribution is consumed after less than three years.

Thus, it follows that eliminating the committee reporters as House employees would save millions of dollars a year and put an end to the accumulation of large sums paid to retirees for long periods after they leave.

The question which now arises is: does the House need these official reporters at all, especially as employees? The Senate has never hired committee reporters as employees. All of its committee work is done by private reporting firms, and at tremendous savings.

In still another area, the Office of the Clerk is influenced by the Chief Reporter to invest hundreds of thousands of dollars on new state of the art equipment which they cannot utilize - and which does not speed up production of transcripts. In fact, in practically all cases, it hampers expeditious delivery, and in most cases it results in an inferior product.

Conclusion

The Office of the Official Reporters to Committees should be eliminated.

The chairman of each committee should appoint the reporting firm he feels is best qualified to serve the needs of his committee. He and his staff are in the best position to evaluate the quality of the service they receive.

The only employee the House would need is a clerk to handle the transcript sales. The proceeds from transcript sales would go to the U.S. Treasury. In this way, a substantial sum of money is earned by Government and needless waste is eliminated.

**The True Cost
of
The Office of the
Official Reporters to
Committees**

The House retains **as employees** ten stenotype reporters and ten transcribers plus four recording technicians and six clerical staff.

	Single	Total Staff
The average yearly salary of the stenotype reporter is:	\$68,725	\$687,250
The average yearly salary of the transcriber is:	43,788	437,880
The average salary of the clerical staff is:	40,278	241,668
The average salary of the recording technician is:	45,000	<u>182,000</u>
Grand Total:		<u>\$1,548,798</u>

The figures above are listed in the publication entitled "Report of the Clerk of the House, October 1, 1992 to December 31, 1992."

In a busy year these stenotypists and their transcribers produce about 100,000 pages. The direct salary cost per page for this work is \$15.50.

The recording technicians, who record and type their own work, produce about 20,000 pages per year. The direct salary cost per page for this work is \$9.00.

In addition to the above costs for reporting and transcribing, these employees are furnished free office space, telephones, all supplies and equipment, medical coverage, and other benefits.

If the official reporters and transcribers on the House payroll produced the same volume of work for a private firm as they now produce for the House, they would earn approximately 25% of their present income. In addition, they would have to pay for their own equipment, telephones and office expenses.

Another very important fact to consider. When the official reporters and transcribers retire, they begin receiving a retirement annuity amounting to 50% to 80% of their highest three-year income. And, when new reporters and transcribers are hired to replace the retirees, these **new salaries must be added** to the amounts received by the retirees in order to arrive at the actual cost of producing each page of transcript.

Some retirees have been receiving their annuity for more than 25 years. In most cases, after a period of ten years, the annuity far exceeds the highest yearly income earned during the retirees' employment.

Although employees contribute to their retirement fund over the years, the amount of their contribution is consumed after less than three years.

The Office of the Clerk has just replaced three recording technicians with three stenotypists and three more transcribers for the stenotypists. This certainly is not cost-effective.

In still another area, the Office of the Clerk is influenced by the Chief Reporter, a person who has no background whatever in managing his own business, to invest hundreds of thousands of dollars on new state-of-the-art equipment which they cannot use **and which does not speed up production of transcripts**. In fact, in practically all cases, it hampers expeditious delivery, and in most cases it results in an inferior product.

The question which now arises is: does the House need these official reporters at all, especially **as employees**? The Senate has **never hired committee reporters as employees**. All of its committee work is done by private reporting firms, **and at tremendous savings**.

Conclusion: The Office of the Official Reporters to Committees should be eliminated.

The staff director of each committee, with the approval (or by the direction) of the chairman, should appoint the reporting firm felt to be best qualified to serve the needs of the committee. That staff director is in the best position to evaluate the quality of the service being received.

The only employee the House would need is a clerk to handle the transcript sales. The proceeds from transcript sales would go to the U.S. Treasury. In this way a substantial sum of money is **earned** by Government and needless waste is eliminated.

Contracting Out
Office of Management and Budget
Circular No. A-76 (Revised)

Saving Money and Increasing
Efficiency by Expanding
Circular No. A-76
to Include the
U.S. Congress

The Situation:

The citizens of the United States are angry about having their taxes raised while there are still enormous amounts of blatant Government waste glaring from every corner of the Congress. "Study after study ... demonstrate that savings of between 30 to 40 percent can be achieved by contracting out government work to private business. If all agencies took advantage of contracting out opportunities, the total savings would amount to \$7 billion per year."¹

"In the process of governing, the Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength. In recognition of this principle, it has been and continues to be the general policy of the Government to rely on commercial sources to supply the products and services the Government needs."² The Office of the Official Reporters to Committees does, in fact, compete with private firms.

The Solution:

The Congress passed Public Law 100-366 to increase the efficiency of the Executive Office of the President. Congress should take its own good advice and Convert to Contract services and tasks that are done by Government that are in direct competition with the private sector, especially when the private sector can do them less expensively and better. The Office of Management and Budget suggests that services be converted to contract when the cost differential is greater than 10%³

¹ Executive Office of the President, Office of Management and Budget, Office of Federal Procurement Policy, Enhancing Governmental Productivity through Competition: A New Way of Doing Business Within the Government to Provide Quality Government at Least Cost (OMB:Washington, D.C., August, 1988) introduction by President Ronald Reagan.

² Executive Office of the President, Office of Management and Budget, Circular NO. A-76 (Revised) (Washington, D.D.:OMB) p.1, para 4.a.

³ Office of the President, Office of Management and Budget, Supplement, Performance of Commercial Activities (Washington, D.C., August, 1983) Part 1, p. 1-13, Para. G Cost Differential.

**Comparison of Computer
Aided Transcription
and
Recording Technicians**

Comparison of Computer Aided Transcription and Recording Technicians

A MATTER OF SPEED:

Computer Aided Transcription (CAT) uses a stenotype machine whereas a Recording Technician uses a tape recorder and microphones.

A stenotypist who takes 250 words a minute will miss 50 words a minute when someone talks at 300 wpm. John F. Kennedy, for example, often spoke at 300 words a minute. If words are missed and other errors occur, where do they go? The transcriber makes them up to fill in the blanks or leaves it out.

A recording technician uses microphones or voice writing to report a speaker. A tape recorder has no speed problems, and if a witness does not speak into a microphone, the reporter voice writes on to a second track. This, in combination with a log of who is speaking, is much more accurate. The recorded tape is constantly monitored to assure there is no malfunction.

ACCURACY: SPELLINGS AND UNUSUAL PHRASES:

A stenotypist is tied to his stenotype machine. If a witness uses a word that the transcriber does not understand or cannot spell, he cannot leave his machine to ask the witness for the proper spelling. To leave the machine is to miss all that is being said. As you well know, witnesses usually leave after testifying, so obtaining the proper phrases or spellings will require considerable research and telephone calls.

A recording technician is not tied to his machine. If a witness uses an unusual word, the recording technician passes the witness a note asking how to spell it or to clarify the word or phrase in question. In this manner accuracy is maintained.

ACCURACY: ATTRIBUTION

If a CAT operator mistakenly attributes a statement to the wrong person, how does one correct the mistake and determine who is really speaking? Some CAT operators will tell you they make a tape in conjunction with the stenotyping. However, the tape is not monitored, so if something goes wrong with the tape all verification is lost. Who turns the tape over when it is full? How do you know if the microphones are picking up what the witness or Member is saying? How do you know if the tape machine malfunctions if you are concentrating on stenotyping?

RECORD VERIFICATION:

A stenotype reporter will occasionally be involved in a session which is well beyond his ability to report accurately, be it because of rapid argument or unusual terminology. In such a situation a substantial portion of what occurred is omitted, and it becomes necessary for the reporter to do a considerable amount of patchwork on his stenotype notes.

Should this reporter at a later date be called upon to bring in his notes to verify the accuracy of his transcript - because it was evident to participants in the hearing that there were many inaccuracies in the transcript - it is very unlikely that this stenotypist would appear with his original notes, in which he had made numerous revisions and additions.

In such a situation all the stenotypist needs to do is to get a copy of the transcript in question and re-stenotype it to conform. How would those who had questioned the accuracy of the transcript know that the notes were rewritten and were not the originals?

A recording technician keeps a log of who speaks and the first few words they speak. If an attribution error is suspected, the tapes are consulted so the voices can be matched to the speaker. Since the tape is constantly monitored using a three-head tape recorder - a system that listens to the actual tape that has been recorded - what the recording technician hears is what is on the tape. There are no surprises. In our office, tapes are saved for at least one year from the date of the hearing.

HIGH-PAID \$72,000 STENOTYPE OPERATOR v \$18,000 RECORDING TECHNICIAN:

A stenotype reporter demands a high price for his services. If you need extra reporters you will have to pay them a very high wage.

A recording technician earns about \$18,000 a year. If you need extra reporters, they will be more cost-effective. And where is there a rule that states you have to operate a stenotype machine in order to report a hearing, despite the fact that advancements in state-of-the-art equipment now makes it possible for highly qualified people who otherwise do not have the aptitude required for stenotype reporting to enter the field, and who might otherwise be foreclosed from pursuing a reporting career?

SCOPING v TRANSCRIBING:

CAT uses scoping - that is, someone looks at the words on the CAT disk and cleans up the mess. If a tape was not made, how do they know if they are accurate? What if the tape is not a good one? The Office of the Official Reporters to Committees is striving for 150 pages a night from a scoper.

A transcriber working from a tape misses no words because they are all on a tape that has been monitored by a recording technician, so you know it contains no errors. A transcriber for Court Reporting Services, Inc. can transcribe 180 to 200 pages a night, which is faster than anyone who is scoping.

An example: Have you ever tried to correct a letter that has had a lot of changes made to it? Many times it is faster to retype the letter than make all the changes, especially if you are as fast a good transcriber.

EQUIPMENT COSTS:

The Office of the Official Reporters to Committees spent \$1.5 million dollars on equipment last year alone to support CAT. A recording technician uses only tape recorders (\$380.00) and a basic, inexpensive computer (\$700.00). Which would you rather pay for if it were your money, especially when the work of the recording technician is far more accurate.

FALSE JOB SECURITY v VERSATILITY:

One wonders why the Office of Official Reporters to Committees picked the most expensive, training-intensive method for reporting committees. Could it be that they want to make themselves indispensable? One must ask.

Reporters Wanted \$75,000 Minimum

GUARANTEED BY CONTRACT

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NATIONAL FISHERIES INSTITUTE, INC.

1525 WILSON BOULEVARD ■ SUITE 501 ■ ARLINGTON, VA 22209 ■ (703) 524-8880 ■ TELEEX 101 6502504885 ■ FAX (703) 524-4619

Statement Of The National Fisheries Institute

before the

Joint Committee On The Organization Of Congress

June 29, 1993

Mr. Chairman and members of the Committee:

My name is Richard E. Gutting, Jr. and I represent the National Fisheries Institute.

The Institute is a trade association of over 1,000 companies and organizations in the U.S. fish and seafood industry. Our members are located throughout the United States and are engaged all aspects of the industry, including growing, harvesting, processing, and marketing fish and seafood products.

The Institute appreciates this opportunity to testify in opposition to the suggestions of others to eliminate the Merchant Marine and Fisheries Committee. This committee, we believe, should be maintained as a much-needed focal point for ocean and environmental policymaking.

1. The Committee Has The Diverse Regional Representation Needed For Fishery Legislation

The Merchant Marine and Fisheries Committee has been very successful in developing the laws which govern both the conservation and development of our nation's fishery resources. In the 1970s, for example, the committee was instrumental in obtaining passage of the Magnuson Fishery Conservation and Management Act and a series of follow-up fishery laws.

These committee initiatives broke the dominance of foreign fleets in U.S. fisheries, and sparked a boom in U.S. seafood employment and production. U.S. catches increased more than five-fold in value to the \$4-billion level, and employment more than doubled to exceed 300,000. Today, thanks to these laws, the United States ranks fourth in production, and first among nations in annual exports which now exceed \$6 billion.

Fishery issues are extremely diverse and complex. U.S. seafood companies operate in the arctic waters of the Bering

Sea as well as the tropical waters of the Caribbean and western Pacific. In each part of the nation, fisheries are shaped by different resources and environmental conditions, different ethnic and social histories, different fishing gear, technology and markets, and different ways of doing business. For the most part, seafood people are small businessmen who are fiercely independent and competitive.

The seafood industry also is very people-oriented with thousands of firms located in close-knit rural and coastal communities throughout the United States. Our business provides a way of life for thousands of fishermen and their families. This personal involvement is one of the reasons why passions are so often aroused when congress debates fishery policy, and why policy making is often so difficult.

Fortunately, all regions of the country are represented on the Merchant Marine and Fisheries Committee and the committee historically has approached controversies on a regional, rather than a partisan basis. This regional, nonpartisan approach, we believe, has contributed to the committee's success, and is necessary for future success in fishery policy-making.

2. The Committee Has The Expertise Needed To Integrate Ocean Programs

No committee in the House of Representatives, other than the Merchant Marine and Fisheries Committee, has developed significant expertise on ocean's issues. This expertise is needed to address the controversial ocean issues the congress must resolve in the next few years.

In 1983, the United States extended its sovereign rights and jurisdiction over ocean resources out to 200 nautical miles in a new Exclusive Economic Zone. This zone is the largest in the world, encompassing some 3.9 billion acres---approximately 1.3 times the onshore territory of the United States and almost three times larger than all public lands in the United States.

The companies and individuals using in this zone contribute some \$80 billion each year to the U.S. gross national product. This is the same order of magnitude as other major segments of the U.S. economy, such as all farms, all land-based mining, transportation other than maritime shipping, and communications.

Competition for ocean resources is growing on several fronts. Several federal programs, which were developed during a time when resources were not in such demand, are now in potential conflict with each other.

Federal ocean programs, for the most part, are single-purpose regulatory systems such as those which regulate fishing, the disposal of waste, navigation, recreational boating, or other coastal and ocean activities. This has begun to create confusion

over national goals and is prompting more and more multiple-use conflicts.

One such conflict concerns balancing the harvest of fish with the protection of marine animals. Harvesting efficiency and profitability in the shrimp fleet, for example, have been hurt by the excluder devices required to protect sea turtles under the endangered species program. Protecting other animals threatens to shut down salmon fishing on the west coast and international trade in tuna. Likewise, the protection of marine mammals is adding costs to fishing operations in Alaska, threatens to significantly reduce future fish production on the west coast, and has disrupted international trade in tuna, salmon and squid.

The ocean laws, such as the Marine Mammal Protection Act and Magnuson Fishery Conservation and Management Act, which govern these conflicts are exceedingly complex. The issues raised involve highly technical biological, oceanographic, legal and economic issues.

Congress, we believe, must clarify national ocean policy, if the United States is to maximize the benefits from its ocean resources. The Merchant Marine and Fisheries Committee, with its senior members and long-standing professional staff, has developed the needed expertise.

Fragmenting ocean programs, and distributing them among several committees, would dismantle the only viable forum where these ocean issues can be resolved.

3. The Committee Is Needed To Resolve Pressing Environmental Concerns

The Merchant Marine and Fisheries Committee also has been a leader in finding innovative solutions to environmental concerns. In 1970, for example, it developed the National Environmental Policy Act which was the first law to integrate environmental thinking into the day-to-day activities of federal agencies.

The role of the Merchant Marine and Fisheries Committee is shifting. Historically, much of its legislation was in direct support of the commercial maritime industry. In more recent years, the committee has shifted its emphasis to environmental issues and to the difficult task of balancing the need for jobs with the need to protect the environment.

What we discovered in the 1960s---that we must address environmental challenges in a comprehensive and integrated manner---we are rediscovering today. The committee, we believe, with its broad jurisdiction and environmental expertise, is best positioned to find new solutions.

Thank you again for the opportunity to testify.

ORAL STATEMENT

THOMAS A. SCHATZ

PRESIDENT

CITIZENS AGAINST GOVERNMENT WASTE

BEFORE THE JOINT COMMITTEE ON REORGANIZATION OF CONGRESS

JUNE 29, 1993

MR. CHAIRMAN, I AM PLEASED TO APPEAR BEFORE YOU TODAY ON BEHALF OF THE 550,000 MEMBERS OF CITIZENS AGAINST GOVERNMENT WASTE.

THERE ARE FEW MORE IMPORTANT ENDEAVORS OF THE 103RD CONGRESS THAN THE WORK OF THIS COMMITTEE. TAXPAYERS ARE DEMANDING A MORE RESPONSIVE AND ACCOUNTABLE LEGISLATURE, AND THEY ARE WATCHING CLOSELY TO SEE IF REAL AND EFFECTIVE CHANGE WILL BE MADE.

WHILE ONE COULD DRAW UP A LONG LIST, HERE ARE THE "TOP TEN" ITEMS ABOUT CONGRESS WHICH CONSISTENTLY SHOCK AND AMAZE TAXPAYERS:

- (1) MEMBERS OF CONGRESS DO NOT ATTEND MOST COMMITTEE HEARINGS AND OFTEN VOTE WITHOUT BEING PRESENT.**
- (2) MEMBERS RARELY READ LEGISLATION BEFORE THEY VOTE.**
- (3) STAFF SIZE PER MEMBER IS 10-20 TIMES GREATER THAN IN FDR'S DAY AND COMMITTEE STAFF HAS INCREASED AT A**

FAR GREATER RATE THAN THE GROWTH IN POPULATION OVER THE PAST THIRTY YEARS.

- (4) RESTRICTIVE RULES OFTEN ALLOW NO OPPORTUNITY TO AMEND BILLS.**
- (5) THE HOUSE IS TYPICALLY ONLY IN SESSION FROM TUESDAY TO THURSDAY.**
- (6) MANY OF THE LAWS CONGRESS MAKES FOR THE REST OF THE COUNTRY DO NOT APPLY TO ITSELF.**
- (7) MORE THAN ONE-THIRD OF LEGISLATION ENACTED BY CONGRESS IS RELATED TO COMMEMORATIVE DAYS OR EVENTS.**
- (8) COMMITTEE HEARINGS ARE NOT ALWAYS OPEN OR ACCESSIBLE TO THE PUBLIC AND ARE STACKED 96% WITH WITNESSES WHO WANT EITHER MORE SPENDING OR NEW PROGRAMS.**
- (9) THERE IS NO INSPECTOR GENERAL (IG) FOR THE HOUSE OR SENATE**
- (10) BILLIONS OF DOLLARS IN SPENDING IS PASSED BEHIND CLOSED DOORS, WITHOUT DEBATE AND DISCUSSION IN THE HOUSE OR SENATE, WHILE MEMBERS SPEND MORE TIME IN THEIR OFFICES WITH LOBBYISTS THAN CONSTITUENTS.**

IT'S NO WONDER TAXPAYERS ARE FRUSTRATED AND ANGRY, AND THAT TERM LIMITS CONTINUE TO RECEIVE OVERWHELMING SUPPORT AND ADOPTION IN EVERY STATE WHERE IT HAS BEEN ON THE BALLOT. VOTERS ARE SAYING, "ENOUGH!"

**HERE'S HOW TO REMEDY THE TEN PROBLEMS IDENTIFIED AS
TOP COMPLAINTS ABOUT CONGRESS:**

(1) THE NUMBER OF COMMITTEES AND SUBCOMMITTEES SHOULD BE REDUCED; PROXY VOTING IN COMMITTEE SHOULD BE ELIMINATED. AT THE SAME TIME, CONGRESS SHOULD STREAMLINE THE NUMBER OF FEDERAL AGENCIES.

(2) HOUSE AND SENATE RULES SHOULD BE AMENDED TO ABSOLUTELY PROHIBIT WAIVERS OF RULES WHICH REQUIRE TIME TO REVIEW LEGISLATION PRIOR TO A VOTE. IN THE BUSINESS WORLD, MAJOR INVESTMENTS ARE NOT MADE WITHOUT REVIEWING THE BUSINESS PLAN OR CONSIDERING THE CONSEQUENCES OF ACTION.

(3) IT IS TIME TO END LEGISLATION BY THE UNELECTED. CONGRESS IS NOT TEN TO TWENTY TIMES MORE EFFECTIVE THAN IN FDR'S DAY, WHEN STAFF NUMBERED TWO OR THREE FOR EACH MEMBER OF CONGRESS. REDUCED STAFF MUST ACCOMPANY REDUCTION IN THE NUMBER OF COMMITTEES.

(4) RESTRICTING AMENDMENTS ELIMINATES OPPORTUNITIES FOR MEMBERS, ESPECIALLY THOSE WHO DO NOT HAVE LONG-TERM VESTED INTERESTS IN PROGRAMS, TO OFFER ALTERNATIVES TO THE STATUS QUO. THE HOUSE LEADERSHIP SHOULD OPEN UP FLOOR DEBATES.

(5) AMERICANS WITH MONDAY THROUGH FRIDAY NINE-TO-FIVE JOBS CAN'T UNDERSTAND WHY CONGRESS SEEMS TO ONLY WORK THREE DAYS A WEEK. IT DOESN'T MATTER HOW LONG CONGRESS ACTUALLY WORKS IF IT SOLVES THE NATION'S MAJOR PROBLEMS.

(6) NOT LIVING UNDER THE LAWS WHICH ARE MADE FOR THE REST OF US GIVES TAXPAYERS THE PERCEPTION THAT CONGRESS IS

OUT OF TOUCH WITH THE "REAL WORLD" OUTSIDE THE BELTWAY. APPLYING THOSE LAWS TO CONGRESS WOULD GIVE REALITY TO THE CONSEQUENCES OF LEGISLATION.

(7) WHEN TAXPAYERS HEAR ABOUT NATIONAL TEA DAY OR AMERICAN SEWING WEEK, AND LEARN THAT 35-40% OF LEGISLATION ENACTED BY CONGRESS IS COMMEMORATIVE, THEY GET EVEN MORE UPSET ABOUT THE WASTE OF THEIR TAX DOLLARS. A BI-PARTISAN COMMISSION SHOULD MAKE RECOMMENDATIONS DIRECTLY FOR REVIEW AND APPROVAL BY THE PRESIDENT.

(8) MORE THAN 95% OF WITNESSES AT HEARINGS CALL FOR EITHER MORE OR NEW SPENDING PROGRAMS, AND LESS THAN ONE PERCENT ACTUALLY SPEAK IN OPPOSITION; HEARINGS ARE NOT ALWAYS OPEN OR ACCESSIBLE TO THE PUBLIC. A "SUNSHINE IN CONGRESS" LAW IS NEEDED; IN ADDITION, REQUIRE A "TAXPAYER'S" WITNESS TO APPEAR AT EVERY HEARING.

(9) TO IMPROVE INTERNAL MANAGEMENT CONTROLS, AN INDEPENDENT INSPECTOR GENERAL FOR THE HOUSE AND SENATE SHOULD BE ESTABLISHED.

(10) NO SPECIAL ADD-ONS SHOULD BE PERMITTED ON THE HOUSE FLOOR. SINCE THE SENIORITY SYSTEM HELPS BREED THESE PRACTICES, LIMITING AND ROTATING COMMITTEE SERVICE WOULD PROMOTE MORE NATIONAL INTERESTS.

MR. CHAIRMAN, YOU AND THE MEMBERS OF THIS COMMITTEE HAVE A FORMIDABLE TASK. CREATING A MORE RESPONSIVE, OPEN AND ACCOUNTABLE CONGRESS IS A MAJOR STEP IN CURING THE FISCAL ILLS OF THIS COUNTRY. TAXPAYERS DESERVE NO LESS.



THE INSTITUTE FOR EDUCATIONAL LEADERSHIP, INC.

THE IEL POLICY EXCHANGE

**TESTIMONY OF
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BEFORE THE

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

June 29, 1993

Mr. Chairman and distinguished members of the Committee, I appreciate this opportunity to discuss how the organization of the Congress affects federal programs for children, youth and families -- and to make some recommendations for improvement.¹

ABOUT IEL AND THE POLICY EXCHANGE²

My name is Margaret Dunkle. I am Director of the Policy Exchange of the Institute for Educational Leadership. IEL is a nonprofit, nonpartisan organization that promotes collaborative leadership and effective policies at all levels of government.

The IEL Policy Exchange works to promote cross-cutting policy initiatives that foster collaboration and coordination on issues affecting children, families and communities through seminars, site visits, publications and state-level initiatives. The Policy Exchange is concerned with the entire range of issues affecting children and families, including health, human services, education, employment and training, agriculture/food, income and housing. We focus on federal policies for children and families and have consequently paid a great deal of attention to the Congressional committees and Executive Branch departments with responsibility for these programs.

MANY U.S. FAMILIES ARE IN CRISIS

Children are, both literally and figuratively, the future of our country. And their well being has very real implications for all of us. In 1950 there were 16 workers making contributions to the Social Security system for every retiree drawing a Social Security pension; by 1990 this proportion had dropped to 3 to 1, and is expected to decline to 2.2 to 1 by the year 2020.³

Yet, despite a hodge-podge of federal, state, local and community programs, far too many of our children and families are in desperate shape.

Children are the poorest Americans. Thirteen million children (one in five) live in a family with an income below the federal poverty level (\$13,950 for a family of four).

Our infant mortality rate is higher than 21 other developed countries.

No progress has been made since 1980 in reducing the rate of low-birthweight babies; for black babies, the low-birthweight rate has risen.

Thirty-two million Americans, including 8.3 million children under age 18, do not have health insurance.

More teenage boys in the U.S. die of gunshot wounds than of all natural causes combined.

The adolescent suicide rate doubled from the 1960s to the 1970s and, by 1986, had jumped another 30 percent to 10.2 deaths per 100,000.

Overall performance of U.S. students on achievement tests has not improved markedly over the past decade, and half a million young people drop out of school each year.

Half a million teenage girls have babies each year; about half of these are under age 18.

The number of children living with only one parent, usually their mother, doubled from 1970 to 1989 (from 12 to 25 percent).

The percentage of births to unmarried mothers increased from 5 percent in 1960 to more than 25 percent in 1988. Today, more than a million babies each year are born to unmarried women.

But why, you ask, do these ugly statistics intrude on a debate about the structure of Congress? What does all of this have to do with Congressional organization? Doesn't Congress do all it can through numerous education, health, housing and food programs? In this time of budget cutting and overwhelming budget deficits, what more could Congress do?

The answer is simple. Making federal programs more coherent, starting by straightening out their Byzantine Congressional committee parentage, has the potential to improve the situation substantially. Congress certainly can't solve all of these problems alone. But, if its own house were in order, it could do a far better job.

A FEW EXAMPLES OF TRICKLE-DOWN FRAGMENTATION

Examples of the effects of Congressional fragmentation on families, communities and people are not hard to find.

A family in distress may have to spend dozens of quarters at a pay phone to find out where to apply for housing, income, health or training help. Then, they may have to zig-zag across town to four or five offices (health, social services, housing, school, etc.), only to be told that they have to return to each office next week with additional information -- a pay stub, a utility bill, a rent receipt or proof of the value of their car. Then, after they fill out complicated forms, they may be turned down for *procedural* rather than substantive reasons. (In fact, sixty percent of the denials for AFDC are for procedural reasons, not because the family wasn't poor enough to qualify for help.) Many of these bureaucratic hassles have their origins in the fragmented system of committees that parent each program.

One of the most vexing problems for families, states and localities is the confusing and often conflicting eligibility requirements for various federal needs-based programs. For example, did you know that all of the following statements are true when it comes to determining eligibility for federal programs?⁴

Under Food Stamps, there is a \$4,500 *market value* limit on the value of a car.

Under AFDC, there is a \$1,500 *equity value* limit on the value of a car.

Under Medicaid, the limit on the value of a car ranges from \$1,500 *equity value to excluding the value of the car altogether*.

Under the Pell Grant program (federal student financial assistance), there is *no limit* on the value of a car.

How many people listening to or reading this testimony could glibly recite the exact market value and equity value of *their* car? And how long would it take to figure out the correct answers, knowing that, if you just punt, you might be accused of fraud and denied help altogether?

A major reason for these inconsistencies is that each of these federal provisions comes out of a different set of committees — and the Congress currently has no reliable mechanism (or even *unreliable mechanism*) for coordinating something as basic as the definitions of terms used in multiple programs.

These different definitions of the value of a car make a little more sense when you realize that the programs above come out of 7 *different Congressional committees*.

The Food Stamp program comes out of:

- the House Committee on Agriculture and
- the Senate Committee on Agriculture, Nutrition & Forestry.

The Aid to Families with Dependent Children (AFDC) program comes out of:

- the Subcommittee on Human Resources of the House Ways & Means Committee and
- the Senate Finance Committee.

The Medicaid program comes out of:

- the Subcommittee on Health & the Environment of the House Committee on Energy & Commerce and
- the Senate Finance Committee.

And the Pell Grant program comes out of:

- the Subcommittee on Postsecondary Education & Training of the House Education & Labor Committee and
- the Subcommittee on Education, Arts & Humanities of the Senate Committee on Labor & Human Resources.

To cite another example, I recently returned from San Diego, a county that is undertaking some promising work (primarily through its New Beginnings program) to make services for children and families more coordinated, coherent, effective and efficient. I was appalled to learn that, in order to meet a Board of Supervisor's reasonable-sounding request for a report on the eligibility requirements for mandated assistance programs administered by their Health and Social Service Departments, the

county had to develop a detailed 50-page memo! It makes one wonder how many other states, cities and counties are forced to go through a similarly complex analysis on their path to undoing federal complexity and streamlining their health, income and human services systems.

The staff time to develop this memo (in a time of severe budget cutbacks in California), not to mention the resources needed to administer all of these confusing eligibility requirements on a daily basis, are good examples of the hidden, but very real, cost of the complexity of our current systems of federal programs -- **complexity that is directly traceable to the multiple committees and subcommittees that created these different programs.**

TOO MANY COMMITTEES DEAL WITH CHILDREN & FAMILIES

The complexity of federal programs for children and families makes Rube Goldberg look like a rank amateur. Let me elaborate.

As part of the work of the IEL Policy Exchange, we have taken a close look at the way Congressional committees relate -- or, too often, do **not** relate -- to one another. We examined all programs with funding levels of \$100 million or more in the CRS Report for Congress on *Federal Programs for Children and Their Families*.⁵ In all, we studied 76 programs that account for about \$343 billion in federal funding each year (\$228 billion if you exclude the Dependent Tax Exemption).⁶

Note that many of these programs are not aimed at poor people. In fact, some of the largest programs (such as the Dependent Tax Exemption, Unemployment Compensation, Federal Employees Health Benefits, and Military Health Care Services) are not needs based.

The charts before you and in Attachment A (*Relationships Among House & Senate Committees*) graphically show the chaotic spaghetti-like web of connections among the

House and Senate committees and subcommittees primarily responsible for major federal programs for children and families. To understand this picture, remember that:

The heads of the figures represent full committees, and

The arms, legs, torsos and "pocketbooks" represent subcommittees.

Even in this overly simplified version of the real world there are:

10 different committees and 11 different House-Senate connections for **Income Programs** (\$212 billion or, if you exclude the Dependent Tax Deduction, \$97 billion),

8 different committees and 10 different House-Senate connections for **Social Service Programs** (\$15 billion),

7 different committees and 7 different House-Senate connections for **Education & Training Programs** (\$18 billion),

9 different committees and 6 different House-Senate connections for **Health Programs** (\$46 billion),

4 different committees and 2 different House-Senate connections for **Housing Programs** (\$23 billion), and

3 different committees and 2 different House-Senate connections for **Nutrition Programs** (\$30 billion).

As confusing as this network of committees and subcommittees is, it dramatically *underestimates* the complexity of the relationships. For example, this listing does not include:

The Appropriations and Budget Committees [Including these committees would increase the number of Congressional committees by 4 and the number of subcommittees by at least 12.],

Joint referrals of legislation to multiple committees,

Committees or subcommittees with oversight but not authorizing responsibilities,

Committees, subcommittees, departments and agencies that only have authority over programs of less than \$100 million, or

Any Executive Branch departments or agencies. (As Appendix C shows, many committees and subcommittees deal with multiple departments or multiple agencies within departments.)

In some ways, even the simplest connections are misleading. For example, although Housing programs fall neatly into two connections, they are disconnected from the other committees that deal with the same people. This is a serious problem, especially when you realize that housing affects almost every aspect of a person's life -- from the school a child attends, to how close a family is to a reasonably priced grocery store, to the availability of public transportation to get to a job or services.

Responsibility for these 76 major programs, all of which deal with different aspects of the same people's lives, are handled by 19 committees, 33 subcommittees (not to mention 10 Executive Branch departments, plus the Office of Personnel Management, and 25 assistant secretary-level agencies within departments).

	# Committees Departments <u>Indpt. Agencies</u>	# Subcommittees/ <u>Agencies</u>	Total <u>#</u>
House	10	20	30
Senate	9	13	22
Executive Branch	<u>11</u>	<u>25</u>	<u>36</u>
<i>Total</i>	30	58	88

In all, almost 90 separate federal entities have primary responsibility for major federal programs for children and families.

Clearly, this large number of committees -- with no organizational way to coordinate legislative provisions -- makes it virtually impossible for the Congress to develop coordinated and coherent policies for children and families.

See Appendix B, (*Congressional Committees & Executive Branch Departments*) for a summary of the funding for children and families controlled by each committee, department, subcommittee and agency. As you will see, the 800-pound guerrillas in this arena are the Senate Finance Committee, followed by the House Ways and Means Committee and the Department of Health and Human Services. (For program-by-program funding, see Appendix C, *Who Are the Congressional & Executive Branch "Parents" of Major Federal Programs for Children & Families? A Family Tree.*)

STATES ARE TRYING TO PUT HUMPTY DUMPTY BACK TOGETHER AGAIN

This Congressional complexity and fragmentation -- cloned in the Executive Branch and then cloned again at the state and local levels -- is not benign. It creates many a Maalox moment for states and localities -- and causes inefficiency, confusion, frustration and millions of dollars wasted on administration that could be better spent on programs and services.

States and localities are far ahead of their federal counterparts in realizing that, to be effective, services must address the needs of whole families and whole people -- and not just the health, educational, social services, employment, income, nutritional and housing slice of a family or a person.

The same child who is at risk of school failure is also at risk of poor health.

A person who is homeless is probably also uninsured.

Family members who are poorly nourished are likely to have less concentration, less motivation, more illness and more days lost from school and work.

A parent who can't get child care (or has no transportation to get to affordable child care) is going to have a hard time being a steady employee or getting needed training to make a decent living.

A three-pound baby in neonatal intensive care today is likely to be a high-cost special education student tomorrow, and for 20 years after tomorrow.

If Humpty Dumpty is "real families with inter-related needs," then states are "all the King's horses and all the King's men" who are trying, but can't quite, put Humpty Dumpty back together again.

In fact, states from Oklahoma to Indiana and New Mexico to California are struggling to make sense of a crazy-quilt of federal programs for children and families that reflects the fragmentation of the current Congressional committee structure. More coherent policies and programs coming from the Congress would be a big boost to these efforts.

Because the states are represented by the membership of this Committee and the Leadership illustrate what is happening nationwide, we looked at what these states are doing to make programs for children more coherent. We found that every single state is taking significant local action to put Humpty Dumpty back to together again.⁷

Oklahoma, Indiana and Nevada are among the Family Academy states of the Council of Governors' Policy Advisors, a two-year initiative to help states undertake a comprehensive strategic policy development process to improve outcomes for families through cross-agency and cross-program activities.

Oklahoma has, for example, repositioned state staff to attempt to integrate family services at the local level.

Indiana has reorganized its human services administration by creating an Office of the Secretary of Family and Social Services to oversee new divisions providing children and family services.

New Mexico passed legislation last year to reorganize its Executive Branch to consolidate most programs affecting children, youth and families in a new department, and created an eleven-member advisory committee to assist in policy development and planning.

California has undertaken many efforts to develop stronger families through initiatives to coordinate services at the local level -- for example, the promising pilot New Beginnings program in San Diego. At the state level, California is implementing the school-linked Healthy Start program to provide children and families, especially those who are low-income, with more ready access to health and social services. The legislature has also recently passed bills to require the state to join local efforts to develop a comprehensive and collaborative service delivery system, revise county waiver requirements, and encourage integrated case management across a range of agencies.

Tennessee recently created a Family Support Council to assist with program implementation and oversight. The state has also established an interagency coordination council on the African-American family.

The **Kentucky** legislature made family resource and youth services centers (that coordinate multiple services for children and their families) a centerpiece of their comprehensive school reform initiative. And Kentucky is participating in "The Children's Initiative: Making Systems Work" of the Pew Charitable Trusts.

A team from **Nevada** has participated in the CGPA Family Academy and the state is instituting a new governance board to oversee integrated services to families.

Maryland has a Sub-cabinet for Children, Youth and Families to emphasize prevention, early intervention and community-based care, with the goal of increasing individual self-sufficiency and family stability. Sub-cabinet members include the Secretaries of Health and Mental Hygiene, Human Resources, Budget and Fiscal Planning, and Juvenile Justice, as well as the State Superintendent of Schools.

Arkansas is participating in the Human Services Restructuring Group of the National Governors' Association.

Kansas recently established a legislative Joint Committee on Children and Families to handle recommendations on children and family policy. The Special Committee on Children's Initiatives has developed a comprehensive strategy for investing in children, *The Blueprint for Children and Families*. The legislature has also authorized a children's budget to be compiled and created a Corporation for Change (a quasi-governmental organization to implement a coordinated strategy for investment in Kansas children and their families).

Mississippi passed a 1992 law directing the Department of Human Services to develop a compendium of all existing statutes and regulations affecting children.

Alaska's Family Centered Services program, implemented last year, coordinates the efforts of the community and the Division of Family and Youth Services staff to provide comprehensive services to children and their families. Public health, mental health, and public assistance, within the Department of Health and Social Services, coordinate services to keep children safe and strengthen families.

Maine has created an Inter-Departmental Council for Children, which includes the Departments of Education, Corrections, Human Services and Mental Health. The IEL Policy Exchange has funded Maine to hold seminars and fund pilot sites to coordinate the delivery of services to children and families.

The governor of **Wisconsin** has created a Commission on Families and Children. And the Department of Public Instruction and Department of Health and Social Services are jointly administering a collaborative service grant program to increase academic achievement of pupils, increase efficiency and reduce duplication of program services, and to foster cooperation among schools, service providers, families and pupils.

Washington state has created a Family Policy Council to solicit consortia to address the needs of children and families that are not met by a single department. The state is also implementing coordination activities through projects with the National Association of State Boards of Education and the Council of Chief State School Officers. The legislature has required the Joint Select Committee on Juvenile Justice Issues to develop a community-based

planning, allocation, and service delivery system for children and families, including at-risk youth, runaways, and families in conflict.

Connecticut has created a state-level children's commission and is identifying bench-marks to measure progress in improving the status of children and families. In 1992, the Connecticut legislature also expanded family resource centers from a demonstration program to a permanent program.

The business community in **South Carolina** has spearheaded a public-private partnership that first pushed school reform and is now focusing on broader delivery of services to children.

The District of Columbia has an innovative public-private early childhood collaborative to create an integrated system of services for children from birth through age eight.

Pennsylvania has created a cabinet-level children's council to integrate services for families across all state agencies. In 1991, the state passed legislation that substantially revised the financing structure for children's services.

New York has a wide array of coordination initiatives at the state and local levels, as well as a state council on children, youth and families.

In **Missouri**, the Departments of Social Services, Health, Education and Mental Health are taking the lead in organizing a Family Investment Trust to promote systemic change and work with prototype initiatives in Kansas City, St. Louis, Cape Girardeau, Columbia and Springfield.

Colorado, also a CGPA Policy Academy State, has created a cabinet council for children and families and is restructuring its state agencies to reduce the number that address the concerns of children and families. The legislature also revised the California Preschool Program to give priority consideration to applicants with exemplary plans to coordinate with family support services, plans to make collaborative attempts with public and private child care facilities, and proposals for community development.

And the governor of **Illinois** has created a task force to identify major reforms in how the state delivers services to needy children and families.

All of these programs document a serious need in states for reform of education, health and human services. But, what can be done to deal with these issues in the context of Congressional re-organization?

RECOMMENDATIONS FOR MORE COHERENT FEDERAL FAMILY POLICIES

When Congresswoman Schroeder testified on May 6, she raised many important issues and made several suggestions that my testimony builds upon. I have three interrelated recommendations:

First, leadership is needed from the Leadership.

Second, Congress needs a structure to provide a focus on children and families.

Third, members and committees need better information about the consequences of legislation on children and families.

Let me elaborate on each of these points.

First, Leadership Is Needed from the Leadership

There is no structural substitute for leadership. And there is no procedural surrogate for political will. But sensible structures that help the Leadership and the Congress set and stick to clear agendas can be important tools for developing and implementing coherent policies for children and families.

I believe that the most promising approach is for the Leadership of the House and Senate to develop a coordinated "children and families agenda" for each session of Congress. This agenda would be based on the vision that would most strengthen this country's children and families: it would be client-focused, not committee-focused, jurisdiction-focused or department-focused.

This agenda would be sufficiently flexible to accomodate serendipitous opportunities to make programs and policies more seamless. To show the seriousness of this agenda, it should be adopted as a concurrent resolution, and the Leadership should publish and adhere to weekly or monthly schedules of business to accomplish the agenda.

This agenda could be implemented either alone or in the context of a larger House-Senate agenda-setting process involving, for example, Leadership meetings or party conferences.

This approach has many advantages:

From a practical political perspective, this long-term strategy would help dispel the all-too-frequent public perception that Congress lacks direction and has a limited attention span.

It would give members incentives and political cover to focus on *preventing* problems, which is sensible and cost-effective but not very glamorous.

By providing a vision and a context that go beyond the next mark-up, it would discourage members from micro-managing the programs they authorize and fund.

Finally, this "kids road map" would provide members with consistent themes to address and it would provide the press with trends to track over the course of the session -- in briefings, press conferences, speeches and analyses.

Other variations on this theme would involve the Leadership's use of a task force or imposing time constraints on committees involved with multiply-referred legislation as ways to force action on priority measures. In fact, both of these strategies could be used in conjunction with the agenda-setting and monitoring strategy I have described.

This would take some high-quality staff work -- to develop and negotiate an agenda and monitor progress -- but, if the leadership will is there, the level of effort is certainly reasonable and the payoff could be great.

There Needs to Be a Structure to Provide a Focus on Children & Families

It is hard for the Congress to have a policy focus without a complementary organizational focus. **Congress needs a strong conscience -- and a conscience with clout -- to keep discussion focused on children and families.**

This focus could take many forms. For example:

It could effectively come from the **Leadership**, flowing out of my previous recommendation.

A variation on this theme is for this focus to come from a **Congressional Council on the Family** to coordinate legislative action on children, youth, family and aging issues, such as the one that Congresswoman Schroeder suggested. Members of this Council would include the chairs and ranking members of the committees with primary jurisdiction over these issues. In constructing such a Council, it would be important to provide it with some authority so that it is not viewed as another obstacle to be overcome or circumvented.

Focus could come from new **Committees on Human Resources**, such as the one that Congresswoman Schroeder suggested, that would have jurisdiction over education, training, employment, social services, child and family nutrition programs (including Supplemental Security Income), family support programs, the AFDC JOBS programs and the Earned Income Tax Credit (EIC). Such committees could well be sufficiently diverse and powerful to reflect the larger membership of the House and Senate. A children's subcommittee would take up such issues as Head Start, early intervention, child abuse, child care, juvenile justice and nutrition.

Focus could come from a **House Subcommittee on Children** analogous to the Senate Subcommittee on Children, Family, Drugs and Alcoholism in the Senate Labor and Human Resources Committee. If this were the case, in order for these to be more than toothless tigers, they should also have **significant oversight** for the entire range of programs affecting children and families so that they are taken

seriously by the other committees with legislative authority. This would most likely require additional staffing, perhaps by identifying slots on committees that have the responsibility for, but are currently not conducting, oversight of programs for children and families.

Focus could come from the **Budget Committees**, with those committees taking on a larger oversight role for programs affecting children and families. Or there could be joint **Budget-Appropriations** oversight.

Another possibility, although it looks unlikely in the current climate, is the creation of a new **Joint Congressional Committee on Children and Families**, much on the bipartisan model of the Joint Committee on Taxation, as recommended by the National Commission on Children. This committee could promote coordination across the relevant committees and provide information and analysis. It would coordinate the actions of the authorizing and appropriating committees dealing with policies that affect children and families.

One small step toward providing focus could also be **consolidating subcommittees**, with an eye towards putting major programs affecting children and families in the same subcommittees. See Attachment B (*Congressional Committees & Executive Branch Departments Responsible for Major Federal Programs for Children & Families*) for additional information about which subcommittees currently have authority over which programs, an important fact to consider in assessing the merits of consolidation.

Members & Committees Need Better Information About the Consequences of Legislation on Children & Families

Poor information, skewed information or no information is a recipe for bad policy. Unfortunately, much federal policy concerning children and families is currently made in just that information void -- and the Keystone Cops consequences surface only months later, after regulations have been written, lives and programs disrupted, and state and localities have mobilized to complain. But the fact is that members of Congress need and want better information up front, *before* a bill is passed.

Staff members, and I suspect members as well (from both sides of the aisle, both sides of the Hill and a range of committees) are concerned about how little they know about the secondary affects of legislation they draft. To quote from a recent IEL Policy Exchange report, *Solving the Maze of Federal Programs for Children & Families: Perspectives from Key Congressional Staff*:

"The Congressional committee structure makes it almost impossible to devise collaborative, coordinated strategies. We'll take out an important provision, rather than have a bill referred to another committee, too. That's the kiss of death.

"Appropriations is the only place where we see real program oversight. The other committees don't have any teeth.

"It's difficult to make an early phone call to resolve a problem if we think there will be a turf battle.

"Specializing in one area is tough enough. It's impossible to know enough about all of the different areas and subjects -- education, health, housing, food and so forth.

"We used to be able to rely on OMB as a think tank that provided good information, but now the numbers determine policy there."

For these reasons, I recommend that the Congress require that every bill that reaches the floor have a mandatory report outlining its impact on children and families in committee reports, including:

Likely interactive effects with other laws. (For example: Are the definitions, reporting requirements and administrative procedures consistent with information that is already available or will a whole new set of forms be required?), and

Probable effects on common recipients (such as low-income families that might qualify for multiple federal programs -- EIC, WIC, Medicaid, Section 8 Housing, etc.) as well as probable effects on the state and local level entities that administer these programs.

To be taken seriously, this *information must be in the committee report and published before* a bill is considered on the floor, much as CBO reports cost figures. And it is important for this information to reflect the bill as it was reported out of committee, not as it was introduced. If committees knew such a report were coming, it would impose some discipline and encourage committees to develop their own expertise across programs and committees.

This analysis must be *qualitative as well as quantitative* and could be assigned to any of a variety of the Congressional support agencies, including:

The Congressional Research Service,

The General Accounting Office,

The Office of Technology Assessment, or

The Congressional Budget Office, which already does some similar impact statement-like work, especially regarding cost effects on entitlement programs.

Congress also needs to be sure that some entity adopts the important information functions that the now-abolished House Select Committee on Children, Youth and Families served.

This includes such things as bi-annual publication of *Federal Programs for Children and Their Families* (developed by the Congressional Research Service, but requested by the Select Committee). This guide to programs has been a must-read document for state and local people who are trying to sort through the maze of federal programs. Who will now ask CRS to prepare an update of this document in 1994?

It also includes the hearings, reports and studies of the Select Committee that documented problems that cut across committee jurisdictions and provided a holistic perspective for looking at programs across tidy but artificial jurisdictional lines.

I'm sure there are many other good suggestions that address these issues and I would be pleased to work further with this Committee.

Mr. Chairman, I appreciate the opportunity to testify and welcome any questions.

Endnotes

1. I want to thank my colleagues who provided important advice and assistance in developing this testimony, especially Martin Blank, James Calvin, Jane Dewey, Carl Dolan, Tasha Harris, Ellen Hoffman, Richard Hofrichter, Anthony Krinsky, Eleanor Lewis, Karebelle Pizzigati, Tracy Stern, Michael Usdan, Alisa Warshay and Joan Wills.
2. For additional information about IEL and the Policy Exchange, see Attachment F.
3. These statistics are from *Beyond Rhetoric: A New American Agenda for Children and Families*, Final Report of the National Commission on Children, 1991.
4. See Attachment E (quiz on *How Much Do You Know About Federal Programs for Children & Families?*) for additional examples of how various federal programs relate to one another.
5. The funding figures used for this analysis by the IEL Policy Exchange came primarily from Table 3 (as updated on March 2, 1993 and published separately from this CRS Report). When possible, CRS adjusted these figures to include only funding for children or children and families: consequently, many are lower than the total appropriation, obligation, outlay/expenditure, tax expenditure or program level expenditure that is used in other contexts. For a more detailed explanation and program-by-program numbers, see Attachment C, *Who Are the Congressional & Executive Branch "Parents" of Major Federal Programs for Children & Families? A Family Tree*, including the footnotes.
6. Including all of the under-\$100 million programs listed in the CRS Report for Congress, *Federal Programs for Children and Their Families* would add approximately \$1.9 billion to these totals. This CRS report did not include programs with less than \$10 million in annual funding.
7. The assistance of Linda McCart of the National Governors' Association, Kent Peterson of the Council of Governors' Policy Advisors, Shelley Smith of the National Conference of State Legislatures and my colleagues at IEL was especially helpful in developing this summary of state activities.

Attachments

Attachment A -- *Relationships Among House & Senate Committees Responsible for Major Federal Programs for Children & Families* (Charts)

Attachment B -- *Congressional Committees & Executive Branch Departments Responsible for Major Federal Programs for Children & Families* -- Including "Funding by Committee & Department, Totals & Percentages" and "Funding by Subcommittee & Agency"

Attachment C -- *Who Are the Congressional & Executive Branch "Parents" of Major Federal Programs for Children & Families? A Family Tree*

Attachment D -- Executive Summary, *Solving the Maze of Federal Programs for Children & Families: Perspectives from Key Congressional Staff*

Attachment E -- *How Much Do You Know About Federal Programs for Children and Families?* (Quiz and Answers)

Attachment F -- Information the Intergovernmental/Interagency Policy Exchange (Fact Sheet) and the Institute for Educational Leadership (Brochure)

6-29-93C



THE INSTITUTE FOR EDUCATIONAL LEADERSHIP, INC.

Attachment A

**RELATIONSHIPS AMONG HOUSE & SENATE COMMITTEES
RESPONSIBLE FOR
MAJOR FEDERAL PROGRAMS FOR CHILDREN & FAMILIES**

The following charts show the relationships among the House and Senate Committees that have primary responsibility for major federal programs for children and families.¹ These programs account for about \$343 billion annually (\$228 billion if you exclude the Dependent Tax Exemption).

In all, these charts include:

- In the House, 10 committees and 20 subcommittees, and
- In the Senate, 9 committees and 13 subcommittees.

These pictures look complex. But reality is even more complicated: these pictures do not include the roles of the Appropriations and Budget Committees, joint referrals of legislation to multiple committees, the involvement of oversight committees, and programs with annual federal funding of less than \$100 million.

Even in this overly simplified version, however, there are:

11 different House-Senate connections for Income Programs (\$212 billion or, if you exclude the Dependent Tax Deduction, \$97 billion).

10 different House-Senate connections for Social Service Programs (\$15 billion).

7 different House-Senate connections for Education & Training Programs (\$18 billion).

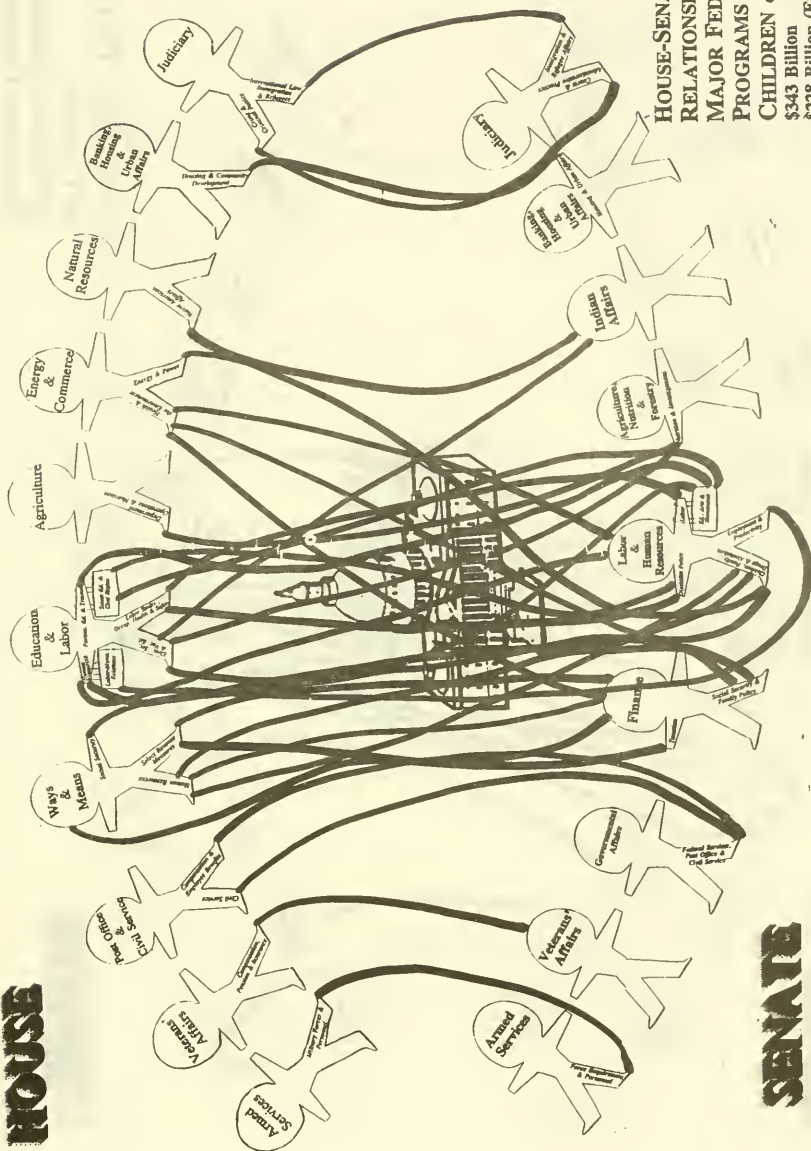
6 different House-Senate connections for Health Programs (\$46 billion).

2 different House-Senate connections for Housing Programs (\$23 billion).

2 different House-Senate Connections for Nutrition Programs (\$30 billion).

6/29/93

¹For purposes of this analysis, "major federal programs for children and families" includes the 76 programs with funding levels of \$100 million or more that are listed in the December 15, 1992 CRS Report for Congress, *Federal Programs for Children and Their Families*. For a more detailed explanation and program-by-program funding figures, see Attachment C, *Who Are the Congressional "Parents" of Major Federal Programs for Children & Families? A Family Tree*.

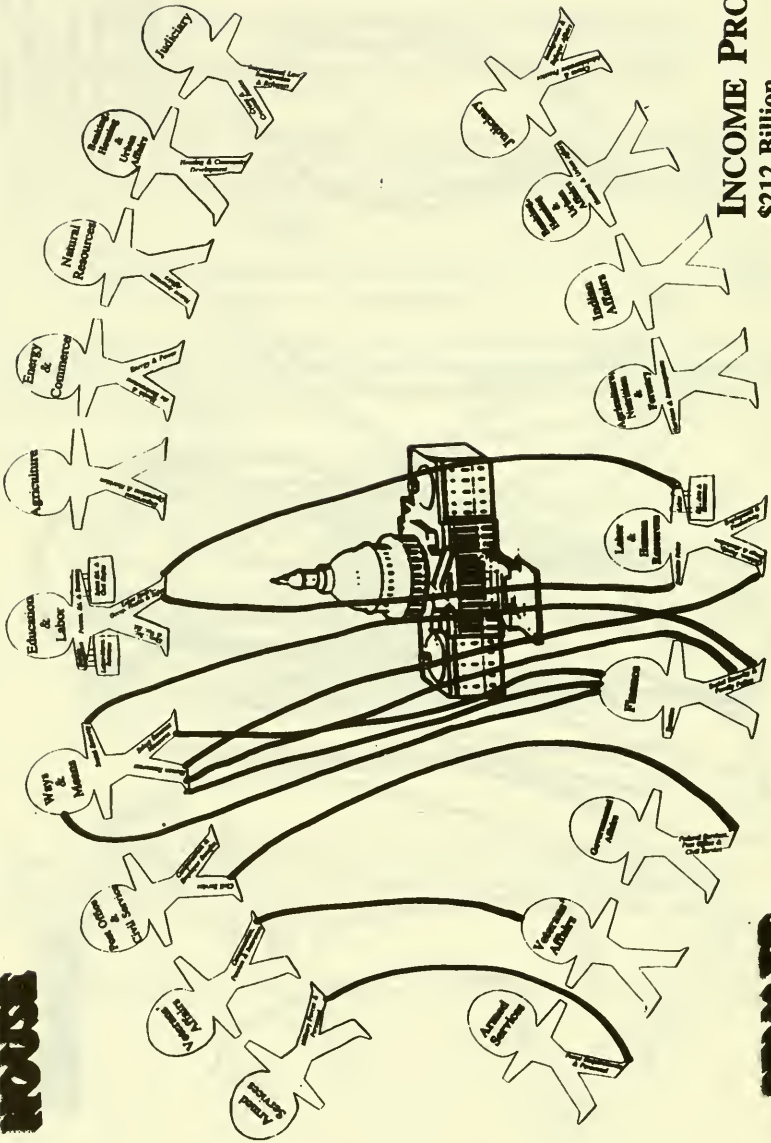
HOUSE**SENATE**

HOUSE-SENATE RELATIONSHIPS FOR MAJOR FEDERAL PROGRAMS FOR CHILDREN & FAMILIES

\$343 Billion
\$228 Billion (Excluding
Dependent Exemption)

HOUSE

SENATE

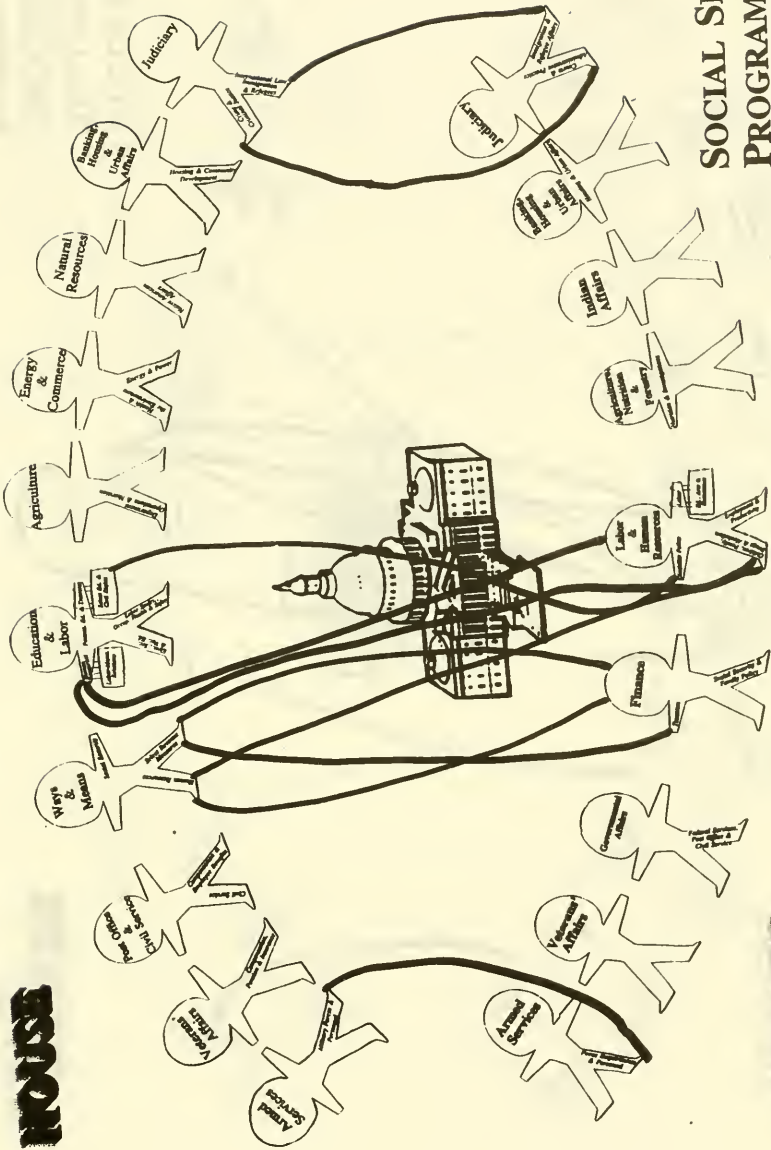


INCOME PROGRAMS
\$212 Billion
\$97 Billion (Excluding
Dependent Exemption)

SOCIAL SERVICE PROGRAMS \$15 Billion

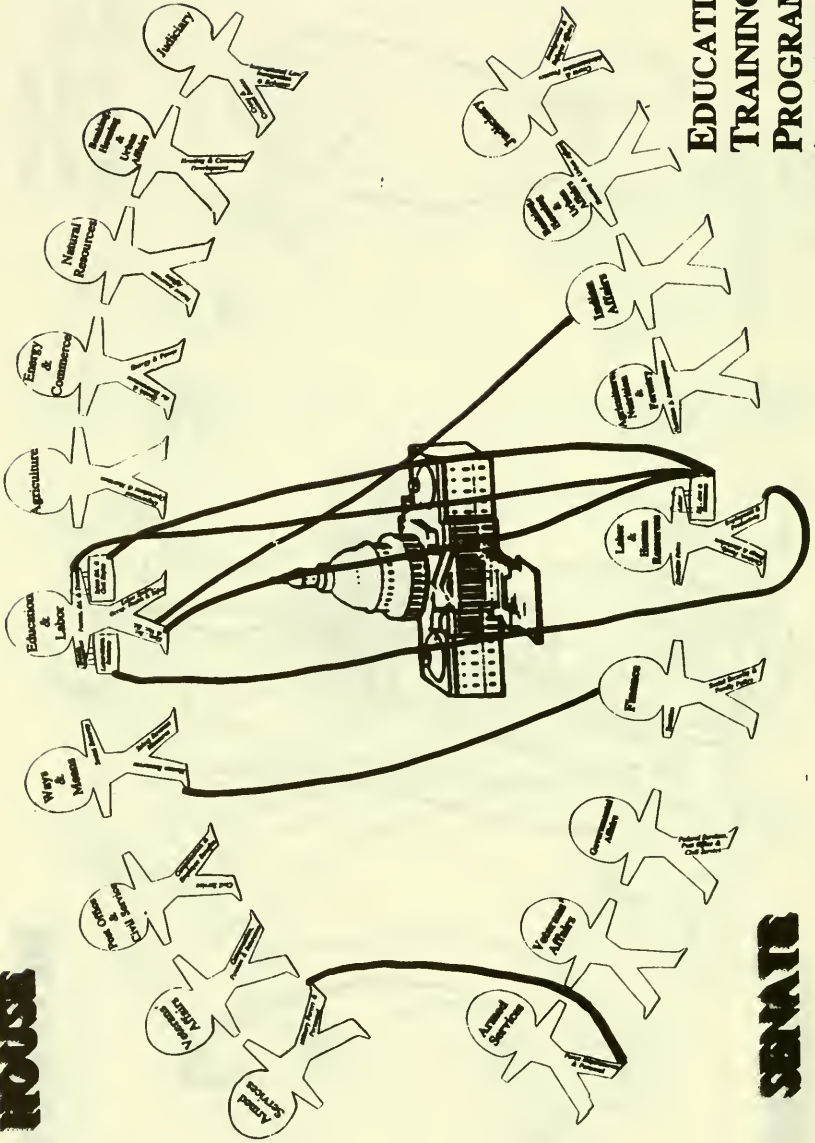
HOUSE

SENATE



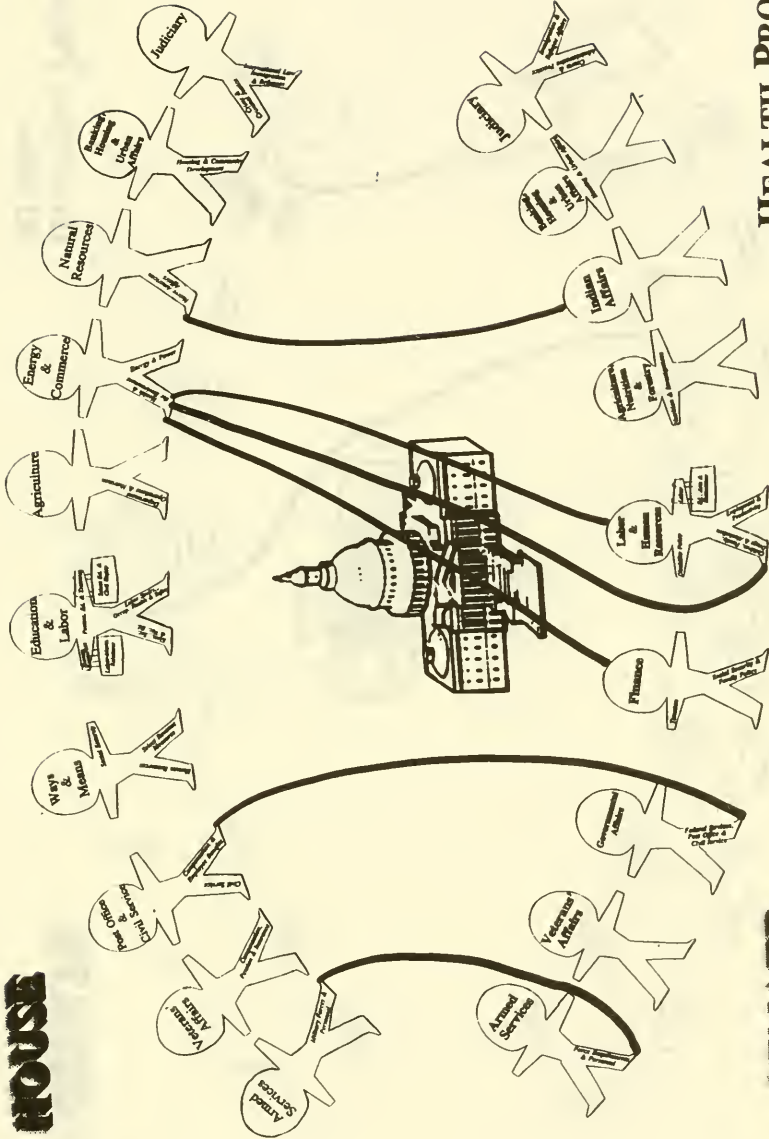
HOUSE

SENATE



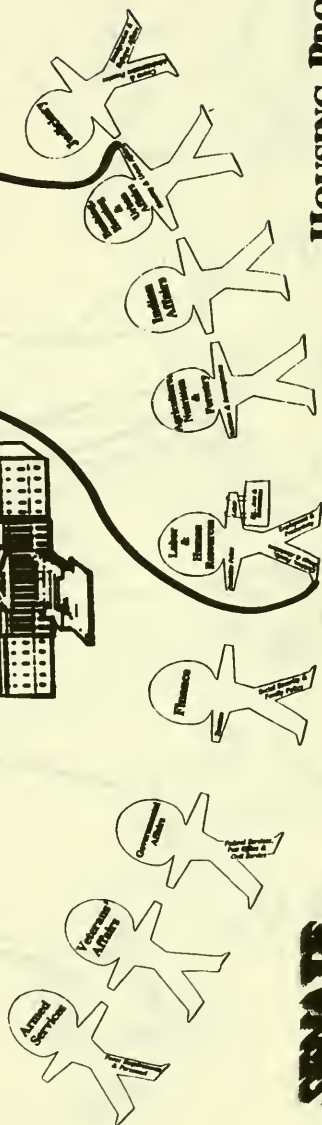
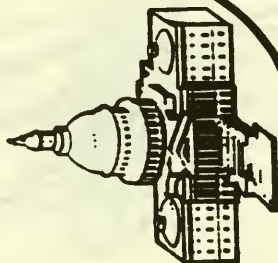
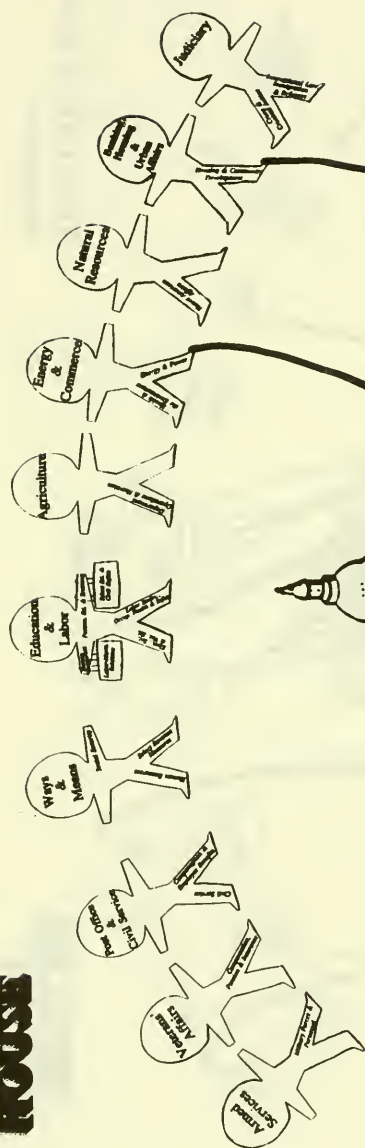
EDUCATION & TRAINING PROGRAMS
\$18 Billion

HOUSE



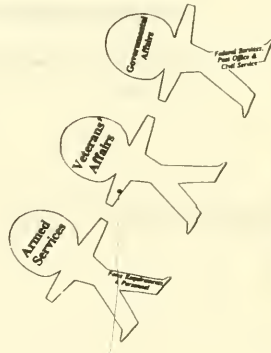
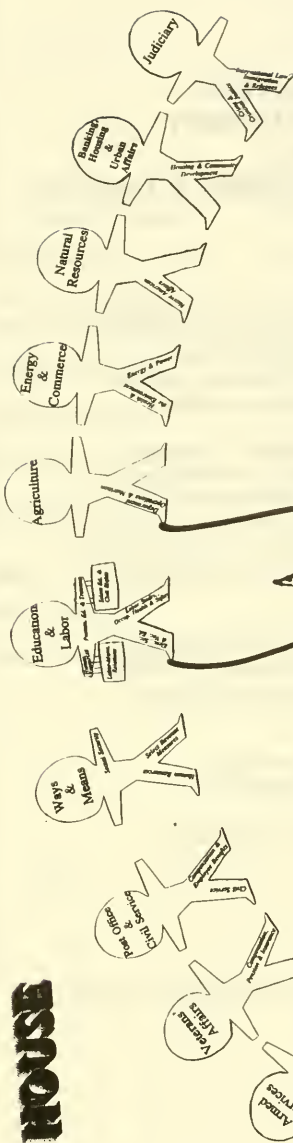
HEALTH PROGRAMS
\$46 Billion

SENATE

HOUSE**SENATE**

HOUSING PROGRAMS
\$23 Billion

HOUSE



NUTRITION PROGRAMS
\$30 Billion

SENATE



Attachment B

CONGRESSIONAL COMMITTEES & EXECUTIVE BRANCH DEPARTMENTS RESPONSIBLE FOR MAJOR FEDERAL PROGRAMS FOR CHILDREN & FAMILIES

Many Congressional committees and Executive Branch departments have primary responsibility for major federal programs affecting children and families.¹ The following pages provide an overview of these 19 Congressional committees, 10 Executive Branch departments and one independent agency, and almost 60 subcommittees and agencies.

This picture, complex as it is, is artificially simplified: it does not include the roles of the Appropriations and Budget Committees, joint referrals of legislation to multiple committees, or the involvement of committees with oversight responsibilities. It also excludes all programs with annual federal funding of less than \$100 million. It does, however, reveal the tip of the complexity iceberg of federal programs affecting children and families.

We have shown the funding levels handled by the various committees, subcommittees, departments and agencies in order to give a rough sense of the magnitude of the resources for children and families that they control.²

Pages 2 - 4 show funding amounts and percentages controlled by different committees and departments.

Pages 5 - 9 break down these amounts by subcommittee and agency.

6/28/93

***Funding by Committee & Department
- Totals & Percentages -***

U.S. House of Representatives

	FY 1993 \$\$ in Billions	% Including Dependent Tax Exemption	% Excluding Dependent Tax Exemption
Ways & Means Committee	\$218.4	64%	45%
Education & Labor Committee	\$33.1	10%	15%
Banking, Finance and Urban Affairs Committee	\$21.6	6%	9%
Agriculture Committee	\$19.5	6%	9%
Energy and Commerce	\$18.1	5%	8%
Armed Services Committee	\$17.6	5%	8%
Post Office and Civil Service Committee	\$11.8	3%	5%
Natural Resources Committee	\$1.9	1%	1%
Judiciary Committee	\$0.6	*	*
Veterans' Affairs Committee	\$0.2	*	*
TOTAL	\$342.8		

U.S. Senate

	<u>FY 1993 \$\$ in Billions</u>	<u>% Including Dependent Tax Exemption</u>	<u>% Excluding Dependent Tax Exemption</u>
Finance Committee	\$228.0	67%	50%
Labor and Human Resources Committee	\$31.3	9%	14%
Agriculture, Nutrition and Forestry Committee	\$29.5	9%	13%
Banking, Housing and Urban Affairs Committee	\$21.5	6%	9%
Armed Services Committee	\$17.6	5%	8%
Governmental Affairs Committee	\$11.8	3%	5%
Indian Affairs Committee	\$2.3	1%	1%
Judiciary Committee	\$0.6	*	*
Veterans' Affairs Committee	\$0.2	*	*
TOTAL	\$342.8		

Executive Branch

	FY 1993 \$\$ in Billions	% Including Dependent Tax Exemption	% Excluding Dependent Tax Exemption
Health and Human Services Department	\$79.5	23%	35%
Labor Department	\$38.8	13%	17%
Agriculture Department	\$32.4	9%	14%
Housing and Urban Development Department	\$18.7	5%	8%
Defense Department	\$17.6	5%	8%
Treasury Department	\$130.2	38%	7%
Education Department	\$13.0	4%	6%
Office of Personnel Management	\$11.8	3%	5%
Interior Department	\$0.4	*	*
Veterans Affairs Department	\$0.2	*	*
Department	\$0.2	*	*
TOTAL	\$342.8		

Funding by Subcommittee & Agency

U.S. House of Representatives

FY 1993 Funding in Billions

Ways & Means Committee

Full Committee	\$11.9	
Human Resources Subcommittee	74.1	
Select Revenue Measures Subcommittee	118.3 ³	
Social Security Subcommittee	14.1	
<i>Subtotal</i>		\$218.4

Education & Labor Committee

Labor Standards, Occupational Health and Safety Subcommittee	\$3.2	
Elementary, Secondary, and Vocational Education Subcommittee	20.3	
Human Resources Subcommittee	4.1	
Select Education and Civil Rights Subcommittee	2.9	
Postsecondary Education and Training Subcommittee	0.2	
Labor-Management Relations Subcommittee	2.3	
<i>Subtotal</i>		\$33.1

Banking, Finance and Urban Affairs Committee

Housing and Community Development Subcommittee	\$21.6	
<i>Subtotal</i>		\$21.6

Agriculture Committee

Departmental Operations and Nutrition Subcommittee	\$19.5	
<i>Subtotal</i>		\$19.5

Energy and Commerce

Health and the Environment Subcommittee	\$16.7	
Energy and Power Subcommittee	1.3	
<i>Subtotal</i>		\$18.1

Armed Services Committee

Military Forces and Personnel Subcommittee	\$17.6\	
<i>Subtotal</i>		\$17.6

Post Office and Civil Service Committee

Civil Service Subcommittee

\$0.1

Compensation and Employee Benefits Subcommittee

11.7

*Subtotal***\$11.8****Natural Resources Committee**

Native American Affairs Subcommittee

\$1.9

*Subtotal***\$1.9****Judiciary Committee**

Crime and Criminal Justice Subcommittee

\$0.2

International Law, Immigration, and Refugees Subcommittee

0.4

*Subtotal***\$0.6****Veterans' Affairs Committee**

Compensation, Pension and Insurance Subcommittee

\$0.2

*Subtotal***\$0.2****TOTAL****\$342.8**

U.S. Senate

Finance Committee			
Full Committee	\$211.0*		
Social Security and Family Policy Subcommittee	14.3		
Taxation Subcommittee	2.7		
<i>Subtotal</i>			\$228.0
Labor and Human Resources Committee			
Full Committee	\$3.4		
Children, Family, Drugs and Alcoholism Subcommittee	9.3		
Labor Subcommittee	1.8		
Disability Policy Subcommittee	1.5		
Education, Arts and Humanities Subcommittee	13.0		
Employment and Productivity Subcommittee	2.3		
<i>Subtotal</i>			\$31.3
Agriculture, Nutrition and Forestry Committee			
Nutrition and Investigations Subcommittee	\$29.5		
<i>Subtotal</i>			\$29.5
Banking, Housing and Urban Affairs Committee			
Housing and Urban Affairs Subcommittee	\$21.5		
<i>Subtotal</i>			\$21.5
Armed Services Committee			
Force Requirements and Personnel Subcommittee	\$17.6		
<i>Subtotal</i>			\$17.6
Governmental Affairs Committee			
Federal Services, Federalism & District of Columbia Subcommittee	\$11.8		
<i>Subtotal</i>			\$11.8
Committee on Indian Affairs Committee			
Full Committee	\$2.3		
<i>Subtotal</i>			\$2.3
Judiciary Committee			
Courts and Administrative Practice Subcommittee	\$0.2		
Immigration and Refugee Affairs Subcommittee	0.4		
<i>Subtotal</i>			\$0.6
Veterans' Affairs Committee			
Full Committee	\$0.2		
<i>Subtotal</i>			\$0.2
TOTAL			\$342.8

Executive Branch

Health and Human Services Department

Administration for Children and Families	\$27.7	
Social Security Administration	33.1	
Health Care Financing Administration	13.2	
Public Health Service	5.4	
<i>Subtotal</i>		\$79.5

Labor Department

Employment and Training Administration	\$35.6	
Employment Standards Administration	3.2	
<i>Subtotal</i>		\$38.8

Agriculture Department

Food and Consumer Services	\$29.5	
Small Community and Rural Development	2.8	
<i>Subtotal</i>		\$32.4

Housing and Urban Development Department

Public and Indian Housing	\$17.1	
Community Planning and Development	1.6	
Federal Housing Administration Commissioner	0.0 ^d	
<i>Subtotal</i>		\$18.7

Defense Department

Department of the Army	\$1.2	
Office of the Secretary	0.2	
Health Affairs	15.3	
Force Management and Personnel	0.9	
<i>Subtotal</i>		\$17.6

Treasury Department

Internal Revenue Service	\$130.2 ^d	
<i>Subtotal</i>		\$130.2

Education Department

Vocational and Adult Education	\$1.1	
Elementary and Secondary Education	8.7	
Bilingual Education and Minority Languages Affairs	0.2	
Postsecondary Education	0.2	
Special Education and Rehabilitative Services	2.8\	
<i>Subtotal</i>		\$13.0

Office of Personnel Management

Retirement and Insurance Group	\$11.8	
<i>Subtotal</i>		\$11.8

Interior Department		
Bureau of Indian Affairs	\$0.4	
<i>Subtotal</i>		<i>\$0.4</i>
Veterans Affairs Department		
Veterans Benefits Administration	\$0.2	
<i>Subtotal</i>		<i>\$0.2</i>
Justice Department		
Justice Programs	\$0.2	
<i>Subtotal</i>		<i>\$0.2</i>
TOTAL		\$342.8

Endnotes

1. For purposes of this analysis, the term "major programs affecting children and families" includes the 76 programs with funding levels of \$100 million or more that are listed in the December 15, 1992 Congressional Research Service Report for Congress, *Federal Programs for Children and Their Families*. For a more detailed explanation and program-by-program funding figures, see Attachment C, *Who Are the Congressional & Executive Branch "Parents" of Major Federal Programs for Children & Families? A Family Tree*.

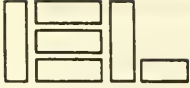
2. The funding figures used for this analysis by the IEL Policy Exchange came primarily from Table 3 (as updated on March 2, 1993 and published separately) of the December 15, 1992 Congressional Research Service Report for Congress, *Federal Programs for Children and Their Families*. These funding figures represent, depending on the program, appropriations, outlays/expenditures, tax expenditures, or program level funding; see the footnotes to Attachment C for details.

3. Includes \$115 for Dependent Tax Exemption.

4. Includes \$115 billion for Dependent Tax Exemption.

5. Funding is included in Public and Indian Housing.

6. Includes \$115 billion for Dependent Tax Exemption.



Attachment C

**WHO ARE
THE CONGRESSIONAL & EXECUTIVE BRANCH
'PARENTS' OF MAJOR FEDERAL PROGRAMS
FOR CHILDREN & FAMILIES?**

—A FAMILY TREE—

Federal programs reflect their parentage—that is, the primary Congressional committees that authorize them and Executive Branch departments that administer them. The following pages outline the family tree for 76 of the largest federal programs for children and families.¹

This list of programs and their programmatic parents looks and, indeed is, complex. It includes 19 Congressional committees, 10 departments and one independent agency, and close to 60 subcommittees and agencies within departments—almost 90 separate entities in all.

Yet, the full picture—including the roles of the Appropriations and Budget Committees, joint referrals of legislation to multiple committees, the involvement of oversight committees, and programs with annual federal funding of less than \$100 million annually—is far more complicated.

In all, these programs account for about \$343 billion annually—or, if you exclude the Dependent Tax Exemption, \$228 billion.²



6/29/93

*FY 1993 Funding in Millions***INCOME PROGRAMS**

House Committee on Ways & Means

Full Committee

Senate Finance Committee

Full Committee

To: Department of Treasury

Internal Revenue Service

Earned Income Credit (EIC)\$11,900⁹

House Committee on Ways & Means

Subcommittee on Human Resources

Senate Finance Committee

Full Committee

To: Department of Health & Human Services

Administration for Children & Families

AFDC—Aid to Families with Dependent Children\$12,453⁴

To: Department of Health & Human Services

Social Security Administration

SSI—Supplemental Security Income\$19,000⁶

To: Department of Labor

Employment & Training Administration

Unemployment Compensation (Dependent Allowance)\$33,300⁸

House Committee on Ways & Means

Subcommittee on Human Resources

Senate Finance Committee

Subcommittee on Social Security & Family Policy

To: Department of Health & Human Services

Administration for Children & Families

Emergency Assistance\$171⁷

House Committee on Ways & Means

Subcommittee on Human Resources

Senate Committee on Labor & Human Resources

Subcommittee on Children, Family, Drugs & Alcoholism

To: Department of Health & Human Services

Administration for Children & Families

Child Support Enforcement\$1,470⁸

FY 1993 Funding in Millions

House Committee on Ways & Means Subcommittee on Select Revenue Measures	
Senate Finance Committee Full Committee	
To: Department of Treasury Internal Revenue Service	
Dependent Tax Exemption	\$115,000 ^a
House Committee on Ways & Means Subcommittee on Social Security	
Senate Committee on Finance Subcommittee on Social Security & Family Policy	
To: Department of Health & Human Services Social Security Administration	
Social Security (Dependents Benefits)	\$14,124 ^b
House Post Office & Civil Service Committee Subcommittee on Civil Service	
Senate Governmental Affairs Committee Subcommittee on Federal Services, Post Office & Civil Service	
To: Office of Personnel Management Retirement & Insurance Group	
Civil Service Child Survivor Benefits	\$128 ^c
House Armed Services Committee Subcommittee on Military Forces & Personnel	
Senate Armed Services Committee Subcommittee on Force Requirements & Personnel	
To: Department of Defense Department of the Army	
Military Survivor Benefit Plan (SBP)	\$1,172 ^d
House Committee on Veterans' Affairs Subcommittee on Compensation, Pension & Insurance	
Senate Committee on Veterans' Affairs Full Committee	
To: Department of Veterans' Affairs Veterans' Benefits Administration	
Veterans' Dependency & Indemnity Compensation	\$238 ^e

FY 1993 Funding in Millions

House Committee on Education & Labor

Subcommittee on Labor Standards, Occupational Health & Safety

Senate Committee on Labor & Human Resources

Subcommittee on Labor

To: Department of Labor

Employment Standards Administration

Workers' Compensation for Federal Employees**(Dependent & Survivor Benefits)****\$1,830¹⁴**

House Committee on Education & Labor

Subcommittee on Labor Standards, Occupational Health & Safety

Senate Committee on Labor & Human Resources

Subcommittee on Disability Policy

To: Department of Labor

Employment Standards Administration

Federal Black Lung Disability Benefits**(Dependent & Survivor Benefits)****\$1,360¹⁵*****Subtotal for Income Programs*****Including Dependent Tax Exemption = \$212,146****Excluding Dependent Tax Exemption = \$97,146**

*FY 1993 Funding in Millions***HEALTH PROGRAMS**

House Committee on Energy & Commerce
 Subcommittee on Health & the Environment
 Senate Finance Committee
 Full Committee

To: Department of Health & Human Services
 Health Care Financing Administration (HCFA)
Medicaid

\$13,200²⁸

To: Department of Health & Human Services
 Public Health Service

Maternal & Child Health Services Block Grant\$685²⁷

House Committee on Energy & Commerce
 Subcommittee on Health & the Environment
 Senate Committee on Labor & Human Resources
 Subcommittee on Children, Families, Drugs & Alcoholism

To: Department of Health & Human Services
 Public Health Service

Community Health Centers\$559²⁸**Childhood Immunization**341²⁸**Family Planning**174²⁸**Substance Abuse Block Grants**1,130²⁸**Community Mental Health Services Block Grants**278²⁸**Drug Abuse Treatment Improvement Programs**134²⁸**HIV Care Grants**115²⁸

\$2,731

House Committee on Energy & Commerce
 Subcommittee on Health & the Environment
 Senate Committee on Labor & Human Resources
 Full Committee

To: Department of Health & Human Services
 Public Health Service

Preventive Health & Services Block Grant\$149²⁸

House Committee on Natural Resources
 Subcommittee on Native American Affairs
 Senate Committee on Indian Affairs
 Full Committee

To: Department of Health & Human Services
 Public Health Service

Indian Health Program\$1,858²⁸

FY 1993 Funding in Millions

House Committee on Post Office & Civil Service	
Subcommittee on Compensation & Employee Benefits	
Senate Committee on Governmental Affairs	
Subcommittee on Federal Services, Post Office & Civil Service	
To: Office of Personnel Management	
Retirement & Insurance Group	
Federal Employees Health Benefits	\$11,700^a
House Armed Services Committee	
Subcommittee on Military Forces & Personnel	
Senate Armed Services Committee	
Subcommittee on Force Requirements & Personnel	
To: Department of Defense	
Office of Health Affairs	
Military Health Care Services	\$15,300^a

Subtotal for Health Programs = \$45,603



*FY 1993 Funding in Millions***NUTRITION PROGRAMS**

House Committee on Agriculture

Subcommittee on Department Operations & Nutrition

Senate Committee on Agriculture, Nutrition & Forestry

Subcommittee on Nutrition & Investigations

To: Department of Agriculture

Food & Consumer Services

Food Stamps\$19,520⁹⁹

House Committee on Education & Labor

Subcommittee on Elementary, Secondary & Vocational Education

Senate Committee on Agriculture, Nutrition & Forestry

Subcommittee on Nutrition & Investigations

To: Department of Agriculture

Food & Consumer Services

National School Lunch Program\$4,055³⁰**School Breakfast Program**844³¹**Child & Adult Care Food Program**1,331³²**Summer Food Service Program**216³³**Commodity Assistance for Child****Nutrition Programs**697³⁴**WIC—Special Supplemental Food Program****for Women, Infants & Children**2,860³⁵

\$10,003

Subtotal for Nutrition Programs = \$29,523

HOUSING PROGRAMS

House Committee on Energy & Commerce		
Subcommittee on Energy & Power		
Senate Committee on Labor & Human Resources		
Subcommittee on Children, Family, Drugs & Alcoholism		
To: Department of Health & Human Services		
Administration for Children & Families		
Low-Income Home Energy Assistance Program (LIHEAP)		\$1,346^a
House Committee on Banking, Finance & Urban Affairs		
Subcommittee on Housing & Community Development		
Senate Committee on Banking, Housing & Urban Affairs		
Subcommittee on Housing & Urban Affairs		
To: Department of Housing & Urban Development		
Office of Public & Indian Housing		
Low-Income Public Housing	\$3,358³⁷	
Leased Housing Assistance—Section 8 (some programs)	13,114³⁸	
Rental Housing Assistance—Section 236	655³⁹	
		\$17,127
To: Department of Housing & Urban Development]		
Office of Community Planning & Development		
HOPE—Home Ownership & Opportunity for		
People Everywhere Program	\$351⁴⁰	
HOME—Home Investment for Affordable		
Housing Block Grants	1,000⁴¹	
Leased Housing Assistance—Section 8 (some programs)	*42	
Supportive Housing for the Homeless	212⁴³	
		\$1,563
To: Department of Housing & Urban Development]		
Office of Housing—Federal Housing Commissioner		
Leased Housing Assistance—Section 8 (some programs)		*44
To: Department of Agriculture		
Office of Small Community & Rural Development		
Rural Housing Loans—Section 502	\$1,676⁴⁵	
Rural Rental Housing Loans—Section 515	739⁴⁶	
Rural Rental Assistance Payments—Section 521	414⁴⁷	
		\$2,829
Subtotal for Housing Programs = \$22,865		



*FY 1993 Funding in Millions***EDUCATION & TRAINING PROGRAMS**

House Committee on Education & Labor

Subcommittee on Elementary, Secondary & Vocational Education

Senate Committee on Labor & Human Resources

Subcommittee on Education, Arts & Humanities

To: Department of Education

Office of Elementary & Secondary Education

Chapter 1—Education for the Disadvantaged,**Local Education Agency Grants** \$6,192⁹⁸**Chapter 2—Education Block Grants for States** 435⁹⁹**State Agency Migrant Education Program** 303⁹⁹**Drug-Free Schools & Communities Act** 598⁹¹**Dwight D. Eisenhower Mathematics &****Science Education Act** 275⁹²**Magnet Schools Assistance** 108⁹³**Impact Aid** 750⁹⁴

\$8,661

To: Department of Education

Office of Bilingual Education & Minority Language Affairs

Bilingual Education Programs \$196⁹⁵

To: Department of Education

Office of Vocational & Adult Education

Vocational Education, Basic State Grants \$973⁹⁶**Vocational Education—Tech-Prep Education** 104⁹⁷

\$1,077

House Committee on Education & Labor

Subcommittee on Postsecondary Education & Training

Senate Committee on Labor & Human Resources

Subcommittee on Education, Arts & Humanities

To: Department of Education

Office of Postsecondary Education

TRIO Programs \$223⁹⁸

House Committee on Education & Labor

Subcommittee on Select Education & Civil Rights

Senate Committee on Labor & Human Resources

Subcommittee on Education, Arts & Humanities

To: Department of Education

Office of Special Education & Rehabilitative Services

IDEA—Education Programs for Children with Disabilities \$2,840⁹⁹

FY 1993 Funding in Millions

House Committee on Education & Labor
 Subcommittee on Labor-Management Relations
 Senate Committee on Labor & Human Resources
 Subcommittee on Employment & Productivity

To: Department of Labor
 Employment & Training Administration

Youth Training Program

\$697^m

Job Corps

966^m

Summer Youth Employment & Training Program

671^m

\$2,334

House Committee on Education & Labor
 Subcommittee on Elementary, Secondary & Vocational Education
 Senate Committee on Indian Affairs
 Full Committee

To: Department of Interior
 Bureau of Indian Affairs

Indian Education Programs

\$394^m

House Armed Services Committee
 Subcommittee on Military Forces & Personnel
 Senate Armed Services Committee
 Subcommittee on Force Requirements & Personnel

To: Department of Defense
 Office of Force Management & Personnel

Department of Defense Dependents Schools

\$906^m

House Committee on Ways & Means
 Subcommittee on Human Resources
 Senate Committee on Finance
 Full Committee

To: Department of Health & Human Services
 Administration for Children & Families

**AFDC JOBS Program (Education, Work & Training
 Program for AFDC Recipients)**

\$1,000^m

Subtotal for Education & Training Programs = \$17,631



FY 1993 Funding in Millions

SOCIAL SERVICE PROGRAMS

House Committee on Ways & Means		
Subcommittee on Human Resources		
Senate Finance Committee		
Full Committee		
To: Department of Health & Human Services		
Administration for Children & Families		
Social Services Block Grant	\$2,800 ⁰⁰	
Child Care and Transitional Child Care for		
AFDC Recipients & Former Recipients	446 ⁰⁰	
At-Risk Child Care Program	300 ⁰⁰	
Child Welfare Services	295 ⁰⁰	
		\$3,841
House Committee on Ways & Means		
Subcommittee on Select Revenue Measures		
Senate Committee on Finance		
Full Committee		
To: Department of Treasury		
Internal Revenue Service		
Income Tax Exclusion for Dependent Care		
Assistance Program		\$615 ⁰⁰
House Committee on Ways & Means		
Subcommittee on Select Revenue Measures		
Senate Committee on Finance		
Subcommittee on Taxation		
To: Department of Treasury		
Internal Revenue Service		
Child & Dependent Care Tax Credit		\$2,685 ⁰¹
House Committee on Ways & Means		
Subcommittee on Human Resources		
Senate Committee on Labor & Human Resources		
Subcommittee on Children, Families, Drugs & Alcoholism		
To: Department of Health & Human Services		
Administration for Children & Families		
Foster Care	\$2,610 ⁰²	
Adoption Assistance	244 ⁰⁰	
		\$2,854

FY 1993 Funding in Millions

House Committee on Education & Labor		
Subcommittee on Human Resources		
Senate Committee on Labor & Human Resources		
Full Committee		
To: Department of Health & Human Services		
Administration for Children & Families		
Community Services Block Grant	\$441 ^m	
Head Start	2,779 ^m	
		\$3,220
House Committee on Education & Labor		
Subcommittee on Human Resources		
Senate Committee on Labor & Human Resources		
Subcommittee on Children, Family, Drugs & Alcoholism		
To: Department of Health & Human Services		
Administration for Children & Families		
Child Care & Development Block Grant		\$893 ^m
House Committee on Education & Labor		
Subcommittee on Select Education & Civil Rights		
Senate Committee on Labor & Human Resources		
Subcommittee on Disability Policy		
To: Department of Health & Human Services		
Administration for Children & Families		
Developmental Disabilities Program		\$109 ^m
House Armed Services Committee		
Subcommittee on Military Forces & Personnel		
Senate Armed Services Committee		
Subcommittee on Force Requirements & Personnel		
To: Department of Defense		
Office of the Secretary		
Military Child Care		\$200 ^m
House Judiciary Committee		
Subcommittee on Crime & Criminal Justice		
Senate Judiciary Committee		
Subcommittee on Courts & Administrative Practice		
To: Department of Justice		
Office of Justice Programs		
Victims of Crime Act		\$205 ^m

FY 1993 Funding in Millions

House Judiciary Committee

Subcommittee on International Law, Immigration & Refugees

Senate Judiciary Committee

Subcommittee on Immigration & Refugee Affairs

To: Department of Health & Human Services

Administration for Children & Families

Refugee & Cuban/Haitian Entrant Assistance Programs \$382⁰⁰***Subtotal for Social Service Programs = \$15,004******Total***

Including Dependent Tax Exemption	\$342,772
Excluding Dependent Tax Exemption	\$227,772

¹For purposes of this analysis, "major federal programs for children and families" are defined to include all programs with funding levels of \$100 million or more that are listed in the December 15, 1992 CRS Report for Congress, *Federal Programs for Children and Their Families*.

²The program-by-program figures are (unless otherwise indicated) from Table 3 (as updated on March 2, 1993 and published separately) of the CRS Report for Congress entitled *Federal Programs for Children and Their Families*, December 15, 1992. Depending on the program, the funding figure given represents an appropriation, an obligation, outlays/expenditures, a tax expenditure or program level expenditure. Caution should be used in comparing funding levels among programs as CRS methodology: sometimes included and sometimes excluded administrative costs, sometimes included only spending for children (while in other instances including a wider array of recipients), and rounded amounts over \$1 billion to the nearest \$100 million while rounding other programs to the nearest \$1 million. Also, FY 1993 outlay figures are estimates.

³Outlays and tax expenditures. Families with children.

⁴Outlays. Families with children.

⁵Outlays. Children and adults. Funding amounts represent benefit or service payments, and exclude administrative expenses.

⁶Outlays. Children and adults. Funding amounts represent benefit or service payments, and exclude administrative expenses.

⁷Outlays. Families with children.

⁸Outlays. Program administration only.

⁹Tax exemption. Families with children. Estimate is based on information from the Joint Committee on Taxation, June 1993.

¹⁰Outlays. Children. Funding amounts represent benefit or service payments, and exclude administrative expenses. Estimate is from the Office of the Actuary, Social Security Administration, June 1993.

¹¹Outlays. Children. Figure is for 1992: 1993 figure is not available.

¹²Obligations. Children and adults.

¹³Outlays. Children and adults. Estimate is from Veterans Benefits Administration of the Department of Veterans Affairs, June 1993.

¹⁴Outlays. Children and adults. Funding amounts represent benefit or service payments, and exclude administrative expenses.

¹⁵Outlays. Children and adults. Funding amounts represent benefit or service payments, and exclude administrative expenses.

¹⁶Federal and state outlays. Children under age 6. Estimate from the Office of the Actuary, Department of Health and Human Services, June 1993.

¹⁷Appropriations. Children and adults.

¹⁸Appropriations. Children and adults.

¹⁹Appropriations. Children and adults.

²⁰Appropriations. Adolescents and adults.

²¹Appropriations. Adolescents and adults.

²²Appropriations. Adolescents and adults.

²³Appropriations. Adolescents and adults.

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- 24Appropriations. Children and adults.
 - 25Appropriations. Children and adults.
 - 26Appropriations. Children and adults.
 - 27Outlays. Children and adults.
 - 28Obligations. Children and adults.
 - 29Obligations. Households with children. Funding amounts represent benefit or service payments, and exclude administrative expenses.
 - 30Program level funding. Children.
 - 31Program level funding. Children.
 - 32Program level funding. Children.
 - 33Program level funding. Children.
 - 34Program level funding. Children.
 - 35Program level funding. Women, infants and children.
 - 36Appropriations. Children and adults.
 - 37Outlays. Children and adults. Estimate does not include operating subsidies and is from Congressional Research Service, June 1993.
 - 38Outlays. Children and adults. Estimate is from Congressional Research Service, June 1993. This figure also includes programs administered by the Department of Housing and Urban Development's Office of Housing/Federal Housing Commissioner and the HUD Office of Community Planning and Development.
 - 39Outlays. Children and adults. Estimate is from Congressional Research Service, June 1993.
 - 40Appropriations. Children and adults.
 - 41Appropriations. Children and adults.
 - 42See footnote #71, above.
 - 43Outlays. Children and adults. Estimate is from the Congressional Research Service, June 1993.
 - 44See footnote #71, above.
 - 45Obligations. Children and adults.
 - 46Obligations. Children and adults.
 - 47Obligations. Children and adults.
 - 48Appropriations. Children.
 - 49Appropriations. Children.
 - 50Appropriations. Children.
 - 51Appropriations. Children.
 - 52Appropriations. Children and adults.
 - 53Appropriations. Children.
 - 54Appropriations. Children.
 - 55Appropriations. Children.
 - 56Appropriations. Children and adults.
 - 57Appropriations. Children and adults.

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- 58 Appropriations. Includes talent search (children and adults) and upward bound (children).
 - 59 Appropriations. Includes state grants (children), preschool (children) infants (families with children), demonstrations (children and adults).
 - 60 Appropriations. Adolescents.
 - 61 Appropriations. Adolescents.
 - 62 Appropriations. Adolescents.
 - 63 Appropriations. Includes Subpart 1 of the Indian Education Act, Johnson O'Malley, and Bureau of Indian Affairs school operations. Children.
 - 64 Appropriations. Children.
 - 65 Appropriations. Adults and child-parents.
 - 66 Appropriations. Children and adults.
 - 67 Appropriations. Families with children.
 - 68 Appropriations. Families with children.
 - 69 Appropriations. Families with children.
 - 70 Tax expenditures. Families with children.
 - 71 Tax expenditures. Families with children.
 - 72 Expenditures. Children.
 - 73 Expenditures. Children.
 - 74 Appropriations. Children and adults.
 - 75 Appropriations. Families with children.
 - 76 Appropriations. Families with children.
 - 77 Appropriations. Children and adults.
 - 78 Outlays. Families with children.
 - 79 Deposits to Crime Victims Fund. Children and adults. Figure is for 1992: 1993 figure is not available.
 - 80 Appropriations. Children and adults.



EXECUTIVE SUMMARY

SOLVING THE MAZE OF FEDERAL PROGRAMS FOR CHILDREN & FAMILIES

PERSPECTIVES FROM KEY CONGRESSIONAL STAFF

Most federal and state programs for children and families are organized to fit within the jurisdictions of specific Congressional committees and Executive Branch departments, not the more complex realities that face today's children and families. To explore this maze of federal programs, the Institute for Educational Leadership's Policy Exchange held two round-table seminars in December 1992. Seminar participants were an eclectic and bipartisan cross-section of key Congressional staff responsible for a wide range of programs, from Aid to Families with Dependent Children (AFDC) to the Earned Income Tax Credit (EITC), Chapter 1 and Food Stamps.

During these discussions, participants candidly and constructively shared their perspectives. *While this executive summary and the full report on the seminars are written in a conversational tone and often use the first person ("I," "We") to convey the energy and openness of the discussion, the specific items are not quotations: they are composites and summaries of the varied points of view expressed.*

What Are the Symptoms of Fragmented Federal Programs for Children and Families?

There are too many different programs run by too many different agencies.

Programs don't fit together to meet the needs of real people.

Federal programs treat states like children. The federal government micro-manages and doesn't allow for flexibility.

The federal bureaucracy is in gridlock.

Programs reward the wrong behaviors—of both recipients and administrators.

We don't speak the same language, even though our programs serve the same people.

You have to be a great manager to be poor.

Why Are Coordinated Services for Children and Families So Rare?

We see the trees, not the forest. There isn't a clear federal vision that unifies all of these programs, even though they serve largely the same people.

People at the federal level don't understand the problems and issues facing states, communities and families.

Turf—state and local programs compete for funds and visibility.

Turf—the Congressional committee structure makes fashioning comprehensive programs difficult.

Turf—Special interest groups fight to preserve "their" programs.

Members of Congress get credit for specific bills—not for looking at the big picture.

The more we target the most needy, the more complicated programs become.

Fragmentation can sneak up on you. Once a program is labeled "successful," Congress asks it to do more and more—gradually loading it down until it isn't so successful.

There is too much to know. You can't keep up with it all. And it's hard for us to see the other guy's perspective: each of us was trained as a specialist.

Most people don't understand what these programs actually do. They think they are a lot more generous than they actually are.

There hasn't been much leadership on programs for children and families.

What Could Congress Do to Improve Federal Programs for Children and Families?

Do for children what we did for the elderly.

Use the laws that are up for reauthorization—or that Congress will be considering anyway—to reward collaboration and coordination.

Be more disciplined in the appropriations process.

Pass separate bills that promote coordination and collaboration.

Make federal funding more flexible. Use federal waivers—or block grants or revenue sharing—to give states and localities more flexibility.

Sunset all programs, including entitlement programs. Or at least get rid of programs that are ineffective or outdated. And eliminate or combine small programs.

Repeal most of the categorical programs. Instead, use that money to provide direct cash assistance or vouchers so that people can pay for services they need.

Use the Congressional reorganization to prod Congress to deal more coherently with issues affecting children and families.

Be adventuresome—do a big bang restructuring of federal programs affecting children and families.

What Legislative Provisions

Might Promote Coordinated Services for Children and Families?

Put services where people are—where children go to school, where families live, where people work and in community centers.

✓ Reward rather than penalize states, communities and providers that operate efficiently and effectively.

Use federal money as a lubricant for flexibility.

Revamp definitions, eligibility requirements and procedures across programs and committees.

Reward outcomes, not processes.

Promote interdisciplinary training.

Fund staff to build bridges across agencies.

• Run pilot programs without regulations as a test.

What Can the Clinton Administration Do to Make Federal Programs for Children and Families More Coherent?

• Have federal departments and agencies work together to develop policies and legislation.

Revamp the audit process.

Have the departments follow through on coordination initiatives already started.

Strengthen the research and planning staffs in OMB and the departments.

Most importantly, the new Administration has to take the lead on coordination across committees and departments.

* * * * *

While the seminars produced a flood of sometimes contradictory and always challenging ideas, they also produced some areas of consensus:

It doesn't take a medical degree or a law degree to diagnose the critical condition of federal programs for children and families. The symptoms are numerous and painful.

The barriers to coordinated services for children and families are substantial. A key problem is turf.

Congressional strategies to make programs for children and families more effective and efficient could range from tinkering around the programmatic edges to a big bang restructuring.

There is no dearth of legislative ideas for promoting collaboration and coordination at the state and local level. The tough part is structuring provisions that will work in states as varied as Florida, Michigan, Mississippi, Nebraska, Oregon and New Hampshire.

Some changes don't require legislation. The Clinton Administration could do some things right away.

Making programs for children and families work better is neither a partisan issue nor a concern of only a couple of Congressional committees. And, while there is no quick fix, now is the time to tackle the issue. When people talk about "government not working," they are often thinking about the well-intentioned but overly complex social programs that bounce a family in distress from agency to agency. The Clinton Administration has a unique opportunity to exert much-needed leadership to impose some sense on the crazy-quilt of federal programs affecting children and families.

Copies of the full report on the December 1992 Policy Exchange seminars
(*Solving the Maze of Federal Programs for Children & Families: Perspectives from Key Congressional Staff*)
are available for \$10 pre-paid from the Institute for Educational Leadership, Suite 310,
1001 Connecticut Avenue, NW, Washington, DC 20036 (202) 822-8405. Volume discounts are available.

1993



HOW MUCH DO YOU KNOW ABOUT FEDERAL PROGRAMS FOR CHILDREN AND FAMILIES?

TAKE THIS QUIZ AND FIND OUT

1. What is Chapter 1?

- a. A new novel by Stephen King
- b. A computer program for people with writer's block
- c. A federal program to give a boost to educationally disadvantaged children
- d. Something that comes before Chapter 2

2. Which of the following federal programs has the largest budget?

- a. Food Stamps
- b. AFDC -- Aid to Families with Dependent Children
- c. WIC -- Special Supplemental Food Program for Women, Infants & Children
- d. Head Start

3. Which statement is true about the Joint Committee on the Organization of Congress?

- a. They have already brought some sense to the crazy-quilt of federal programs for children and families that cut across a dozen committees and subcommittees.
- b. Sure, they have a great opportunity, but they won't have the guts to tackle the tough issues of committee jurisdiction.
- c. No one really knows yet the degree to which the Committee will address coordinating programs affecting children and families.

4. What do the letters "JTPA" stand for?

- a. An antibiotic the FDA just approved to treat drug-resistant tuberculosis
- b. The Job Training Partnership Act
- c. The Juvenile Treatment and Prevention Act

5. What percentage of people eligible for WIC (Special Supplemental Food Program for Women, Infants and Children) actually get food help through this program?

- a. 100%
- b. 73%
- c. 56%
- d. 29%
- e. 8%

6. How about Head Start? What percentage of poor three-to-five year olds actually participate in a Head Start program?

- a. 100%
- b. 73%
- c. 56%
- d. 29%
- e. 8%

7. Why does the IEL Policy Exchange compare collaboration across committees, agencies and disciplines to "dancing with an octopus?"

- a. Because each agency or program is like a tentacle of an octopus, connected but often not coordinated.
- b. Because the old ways of moving no longer work: you have to learn new steps to dance with a creature that has more than two "feet."
- c. Because you can't move ahead if each tentacle goes off in its own direction.
- d. All of the above
- e. None of the above

8. How many low-income households get a rental subsidy through the Section 8 Leased Housing Assistance Program?

- a. 1 million
- b. 4.7 million
- c. 15.7 million
- d. 25.3 million

9. How poor is poor? For a family of four, what annual income is considered "poverty" under the guidelines of the federal Office of Management and Budget (OMB)?

- a. \$50,000
- b. \$24,680
- c. \$13,950
- d. \$6,250

10. What is the most that a family of three (a mother and two children) living in Mississippi could receive each month as an AFDC payment in 1992?

- a. \$120 per month, about \$4 per day
- b. \$180 per month, about \$6 per day
- c. \$370 per month, about \$12 per day
- d. \$660 per month, about \$22 per day
- e. \$1,200 per month, about \$40 per day

11. What is the largest federally funded child care program?

- a. The Social Services Block Grant program, which goes under the alias of "Title XX"
- b. The Child and Dependent Care Tax Credit
- c. The Child Care and Development Block Grant
- d. A special nanny program run by the INS

12. What is EPSDT?

- a. The name of a new rap group
- b. A pesticide that was recently banned
- c. A diet plan where you eat chocolate seven times a day
- d. The part of Medicaid that applies to children under age 21

13. On average, how much of the tab does the federal government pick up for Medicaid and AFDC (Aid to Families with Dependent Children)?

- a. 100%
- b. 80-87% -- the states pay the rest
- c. 50-57% -- the states pay the rest
- d. 20-27% -- the states pay the rest
- e. 0% -- the states pay it all

14. *True or false? Two-thirds of Medicaid recipients are AFDC children and their families, but two-thirds of Medicaid costs are for the aged, blind and disabled.*
- True
 - False
15. *What is the strangest thing about the Earned Income Tax Credit (EITC)?*
- You can only get an EITC if you earn an annual income of up to \$22,370.
 - You can get a check from the IRS even if you don't owe any taxes.
 - Even though the instruction booklet is 32 pages long, 13.8 million families got EITC's in 1992.
 - It could be worth up to \$2,210.
 - All of the above -- *There are a lot of strange things about the EITC.*
 - None of the above -- *There is nothing strange about the EITC.*
16. *Which of the following statement(s) are true regarding how the value of a car is counted in determining eligibility for federal programs?*
- Under Food Stamps, there is a \$4,500 market value limit on the value of a car.
 - Under AFDC, there is a \$1,500 equity value limit on the value of a car.
 - Under Medicaid, the limit on the value of a car varies from a \$1,500 equity value limit to excluding the value of the car altogether.
 - All of the above are true.
 - None of the above are true.
17. *The Institute for Educational Leadership's Policy Exchange is:*
- A CIA front
 - A clearinghouse for recycled policies
 - A nonpartisan effort to promote policies that foster collaboration and coordination on issues affecting children, families and communities
 - All of the above
 - None of the above



April 1, 1993



ANSWERS

**HOW MUCH DO YOU KNOW
ABOUT FEDERAL PROGRAMS
FOR CHILDREN AND FAMILIES?**

1. *c.* Chapter 1 is a federal program to give a boost to educationally disadvantaged children. Chapter 1 funds (\$6.7 billion in 1993) can be used for services (such as supplemental instruction in reading and math) in pre-schools as well as elementary and secondary schools.
2. *a.* Food Stamps has the largest federal appropriation, \$28.1 in FY 1993. The AFDC budget is second largest, with \$14.9 billion in federal funds and \$11.5 billion in state funds. The WIC appropriation is \$2.9 billion and the Head Start appropriation is \$2.8 billion.
3. *c.* No one really knows yet the degree to which the Joint Committee on the Organization of Congress will address coordination of programs affecting children and families. Time will tell. . . .
4. *b.* "JTPA" stands for "The Job Training Partnership Act," a \$4.2 billion federal program that provides training, education, help finding a job, counseling and other services.
5. *c.* Fifty-six percent of the people eligible for WIC actually got food help through this program in 1991.
6. *d.* Twenty-nine percent of three-to-five year olds poor enough to qualify for the program participated in Head Start in 1992. Although final figures are not available, this percentage is expected to increase to 30-35 percent in 1993.

Source: Committee on Ways and Means, U.S. House of Representatives, *Overview of Entitlement Programs: 1992 Green Book*, page 1688.

Source: Anne Stewart, Congressional Research Service, "Head Start: A Fact Sheet," *CRS Report for Congress*, January 22, 1993, page 2.

7. *d.* All of the first three statements are why the IEL Policy Exchange compares collaboration across committees, agencies and disciplines to "dancing with an octopus":

Each agency or program is like a tentacle of an octopus, connected but often not coordinated,

The old ways of moving no longer work: you have to learn new steps to dance with a creature that has more than two "feet," and

You can't move ahead if each tentacle goes off in its own direction.

8. *b.* In 1992, 4.7 million households received rental subsidies under the Section 8 program.

Source: Committee on Ways and Means, U.S. House of Representatives, *Overview of Entitlement Programs: The 1992 Green Book*, page 1678.

9. *c.* \$13,950 is the official OMB poverty income for a family of four. Some programs, such as Food Stamps, are available to any family that falls below this poverty level. For other programs, the income cutoffs are higher. For example, under the WIC program, women with income up to 185 percent of the poverty level ($\$13,950 \times 1.85 = \$25,808$ for a family of four) are eligible for food assistance and nutritional screening.

10. *a.* The most that a family of three (a mother and two children) living in Mississippi could receive each month as an AFDC payment in 1992 was \$120 per month, about \$4 per day. Across all states, the median monthly payment for a family of three was \$370, about \$12 per day.

Source: Committee on Ways and Means, U.S. House of Representatives, *Overview of Entitlement Programs: 1992 Green Book*, page 638.

11. *b.* The Child and Dependent Care Tax Credit is the largest federally funded child care program, with an expected cost of \$2.7 billion in 1993. *Unlike other federally supported child care programs, this program only benefits people who make enough money to pay taxes: it doesn't help people who are very poor.*

The Social Services Block Grant program, also called Title XX, has a 1993 appropriation of \$2.8 billion, but only part of this goes for child care.

The Child Care and Development Block Grant is much smaller, with a 1993 appropriation of less than a billion dollars.

12. *d.* EPSDT is the part of Medicaid that applies to children under age 21. EPSDT stands for "early and periodic screening, diagnosis and treatment." "EPSDT Services" or "screens" include a comprehensive health and developmental history, a comprehensive unclothed physical examination, appropriate immunizations, laboratory tests and health education.

13. *c.* On average, the federal government pays 50 to 57 percent of the cost of Medicaid and AFDC. The states pay the other 43-50 percent. Specifically:

The Congressional Budget Office estimates that the federal government will pay 57 percent and states will pay 43 percent of the \$140 billion cost of Medicaid in 1993.

Federal funds pay an average of 54 percent of benefit costs and 50 percent of administrative costs for AFDC.

Overall, the federal share is largest in poor states and smallest in more wealthy states.

14. *a.* True. Two-thirds (68 percent) of Medicaid *recipients* were AFDC children and their families, but two-thirds (71 percent) of Medicaid *costs* were for the aged, blind and disabled in 1990.

Source: Committee on Ways and Means, U.S. House of Representatives, *Overview of Entitlement Programs: 1992 Green Book*, pages 1656 and 1658.

15. *e.* All of the first four statements are true about the Earned Income Tax Credit:

You can only get an EITC if you have an annual income of less than \$22,371.

You can get a check from the IRS even if you don't owe any taxes.

Even though the instruction booklet is 32 pages long, 13.8 million families got EITC's in 1992.

It could be worth up to \$2,210.

16. *d.* All of these statements are true regarding how the value of a car is counted in determining eligibility:

Under Food Stamps, there is a \$4,500 market value limit on the value of a car.

Under AFDC, there is a \$1,500 equity value limit on the value of a car.

Under Medicaid, the limit on the value of a car varies from a \$1,500 equity value limit to excluding the value of the car altogether.

Source: Sarah Shuptrine, "Reforming Medicaid Eligibility Rules" in *The Safety Net*, Summer 1991, page 6.

17. c. The IEL Policy Exchange promotes policy initiatives that foster collaboration and coordination on issues affecting children, families and communities. Activities of the Policy Exchange include:

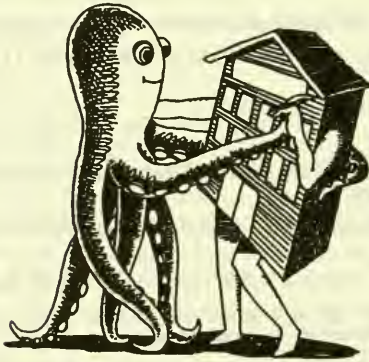
National seminars and site visits for key federal policy makers,
Publications that bridge agency and disciplinary boundaries, and
State-level activities for policy makers.

* * *

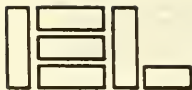
SCORING THIS QUIZ

- 15-17 = You are a certifiable policy wonk.
11-14 = You are a wonk only on Tuesdays and Thursdays.
6-10 = You have wonk potential.
0-5 = You are not a wonk.

The Intergovernmental/Interagency

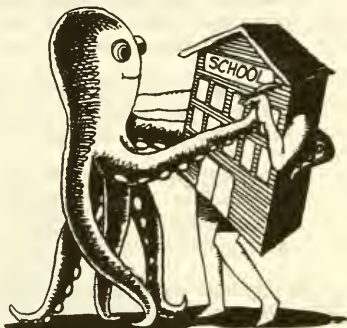


Policy Exchange



THE INTERGOVERNMENTAL/INTERAGENCY POLICY EXCHANGE

The educational, health, social services and employment needs of children and families are intricately intertwined. The same child who is at risk of school failure is frequently also at risk of poor health. A child who is homeless has difficulty completing his or her homework. A child who lives among drugs and violence at night is ill-prepared to flourish academically during the day. A three-pound baby in neonatal intensive care today is likely to be a special education student tomorrow.



Collaboration is like dancing with an octopus, with each agency or organization a "tentacle."

While policy makers are increasingly recognizing these relationships, the policy landscape does not reflect this recognition. At the same time that many communities are struggling to make services more comprehensive and coordinated, state and federal legislative committees, executive branch agencies, interest groups, and postsecondary preparatory programs are overwhelmingly organized by narrow service sectors—education, health, social services, juvenile justice, labor and so forth.

The Intergovernmental/Interagency Policy Exchange is a mechanism to help reshape the policy landscape to reflect the current realities of children, families and communities. Its aim is to create a forum where policy makers and practitioners can learn about cross-cutting and cutting-edge ideas so that they can lead the way to systemic change.



The inter-connected activities of the Exchange are designed to be a catalyst for the development of more thoughtful policies that foster collaboration at the local, state and national levels—as well as to explore the interactions among policies at different levels.

- Through ***national and state seminars***, the Exchange will engage key policy makers across sectors in dialogues about effective and efficient ways to provide comprehensive services to children and families.
- Through ***field visits and retreats***, the Exchange will help national leaders explore innovative strategies, provide reality checks from the state and local levels, and develop the personal relationships that can underpin stronger policy networks among sectors and disciplines.
- Through a new publication, ***The Octopus Times***, the Exchange will provide timely "one-stop-shopping" on policy issues of interagency and intergovernmental collaboration.
- Through ***policy briefs***, the Exchange will synthesize—in a jargon-free style that bridges agency and disciplinary boundaries—key information and issues about collaboration among education and other sectors.

For further information, contact Margaret Dunkle, Director of the Policy Exchange, at the Institute for Educational Leadership.



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BRINGING TOGETHER PEOPLE
WHO CAN EFFECT CHANGE. . ."



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"BRINGING TOGETHER PEOPLE TO EFFECT CHANGE"

The Institute for Educational Leadership (IEL), a 28 year-old not-for-profit organization, seeks to improve educational opportunities and results for children and youth by developing and supporting leaders who work together.

IEL activities engage education and health/human service agencies, schools, school boards, advocacy groups, foundations, corporations, and all levels of government. IEL works to enhance the skills of present and emerging leaders, and facilitates collaborative efforts to create more efficient service delivery systems and enlightened public policy for children and families. Through a national publications program, IEL disseminates information about emerging trends and issues identified by research and demographic analysis.

The following are illustrative examples of IEL's programs and projects.

PREPARING LEADERS...

Education Policy Fellowship Program (EPFP) – operating in thirteen sites throughout the country, a year-long in-service program that introduces mid-career educators and others in the private/public sectors to new leadership skills, public policy, and to each other. Alumni total over 3,400.

DeWitt Wallace-Reader's Digest Collaborative Leaders Program – in-service activities designed to increase the collaborative skills of mid-level staff in schools, government agencies, or other private, public, and non-profit organizations

that provide educational, social, or health services to young people and their families.

Superintendents Prepared – a joint activity with The McKenzie Group and The Joint Center for Political and Economic Studies which will add 90 new candidates recruited from careers in education, law, business, and the military to the pipeline supplying urban superintendencies.

LINKING LEADERS...

Collaborative Leadership Development Program (CLDP) – is developing sustained collaborations in five pilot states, building a culture of collaborative problem-solving among policy leaders.

National Health Education Consortium – a partnership with the National Education Association to "Prevent Infant Mortality to Improve the Nation's Health and Education" by focusing on the local and national health and education networks of 100 national health and education professional membership associations.

Intergovernmental/Interagency Policy Exchange – a mechanism through which policymakers and practitioners at the national and state levels who are working on cross-cutting and inter-related education issues can exchange information and study collaborative issues in depth.

State Education Policy Seminars (SEPS) – a series of seminars co-sponsored with the Education Commission of the States in state capitals where educators, policymakers, and leaders from the private and independent sectors discuss issues affecting state education and human/health services public policy.

National LEADership Network –

a network of 57 federally-funded Leadership in Educational Administration Development (LEAD) centers in each state, the District of Columbia, and six Caribbean and Pacific territories, supported by IEL and the U.S. Dept. of Education's Office of Educational Research and Improvement (OERI).

HELPING LEADERS PUSH BEYOND THE BOUNDARIES...

School Board Effectiveness Program –

a self-assessment curriculum available nationally to school boards, state associations of school boards, consultants, and institutions wishing to review school board performance.

Center for Demographic Policy (CDP) –

analyzes and disseminates the demographic realities influencing our nation's school systems and communities. CDP has published more than two dozen demographic analyses of specific states and metropolitan areas, and is nationally regarded for two seminal works, *All One System* and *The Same Client*.

Center for Workforce Development –

investigates strategies to strengthen linkages among schools, workplace learning systems, and post-secondary institutions, and seeks to establish more relevant and commonly shared benchmarks of excellence for education and training programs in both the private and public sectors.

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STATEMENT OF BETH CLAUDIA MARKS

Director, The Antarctica Project

before the

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

June 29, 1993

I would like to thank you for the opportunity to testify today before the Joint Committee on the Organization of Congress. I am Beth Marks¹, Director of The Antarctica Project. The Antarctica Project is a small, not-for-profit conservation organization which works exclusively on Antarctic conservation and science issues. This statement is presented on behalf of the 25 U.S. member organizations of the Antarctic and Southern Ocean Coalition².

As citizens of this country, and especially as residents inside the "Beltway," we appreciate the formidable task you have in recommending needed changes to improve the way Congress works and enable it to function more efficiently. However, we are concerned that the advice offered to this Committee in several well-intentioned reports³, to disband the House Committee on Merchant Marine and Fisheries, will decrease Congress' ability to respond effectively to vital marine, coastal, and fisheries issues. No other Committee in Congress has developed expertise on ocean and coastal policy.

The basic objective of reforming Congress is to improve the way it works and to improve the quality of its decisions. Disbanding the Committee on Merchant Marine and Fisheries will have the opposite effect.

¹Member of the Antarctic Section of the Department of State Advisory Committee on Oceans and International Environmental Scientific Affairs; Non-governmental representative on the U.S. delegation to the Convention on the Conservation of Antarctic Marine Living Resources, 1990-present; Jim Barnes, Counsel to The Antarctica Project and head of the International Department at Friends of the Earth, joins in this statement.

²The Antarctic and Southern Ocean Coalition has over 200 member organizations in 49 countries, including 25 in the U.S.: American Cetacean Society, American Littoral Society, Animal Welfare Institute, The Antarctica Project, Cetacean Society International, Defenders of Wildlife, Earth Island Institute, Earthlink, Friends of the Earth (USA), Friends of Whales, Greenpeace (USA), The Humane Society of the United States, International Panel for Animal Welfare, Mosher Consortium, Monitor International, National Audubon Society, National Parks and Conservation Association, Natural Resources Defense Council, Ocean Alliance, Sierra Club, Sierra Club Legal Defense Fund, The Wilderness Society, Wildlife Foundation, World Society for Protection of Animals, WorldWide Fund for Nature-USA. The Antarctica Project is the northern hemisphere Secretariat for the Antarctic and Southern Ocean Coalition.

³Committee Reorganization: Some Options, Congressional Research Service, March 26, 1993; Reforming Congress, First and Second Reports, by Thomas Mann and Norman Ornstein, 1992 and 1993, Brookings Institute and American Enterprise Institute.

The House Committee on Merchant Marine and Fisheries is the only Congressional committee which has expertise in a wide range of fisheries and marine issues. Disbanding it and dividing its responsibilities among several committees will decrease the ability of Congress to make reasoned, well-thought out decisions not only with respect to domestic and international fisheries issues, but to domestic and international conservation issues as well. Its leadership on the National Environmental Policy Act of 1970, the Marine Mammal Protection Act of 1972, the Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, the Magnuson Fishery Conservation and Management Act of 1976, the Antarctic Conservation Act of 1978, the Antarctic Marine Living Resources Act of 1984, the Antarctic Protection Act of 1990, and the Oil Pollution Act of 1990, to name just a few, are evidence of this!

If the Committee is disbanded, this knowledge, expertise and institutional memory will be lost, as members and staff are reassigned to other committees. The emphasis currently given to these critical issues will be diminished as they are added piecemeal to the workloads of other committees.

As pointed out by the Honorable Jack Fields in his appearance before this Committee on April 29th, ocean programs have always received minimal attention in the Senate. In almost every instance, it is the House Committee on Merchant Marine and Fisheries that produces legislation for coastal and ocean environment issues.

With respect to the Committee's leadership on domestic and international environmental and fisheries issues, I would like to concentrate on Antarctica. The Committee on Merchant Marine and Fisheries has always been on the cutting edge of policy decisions with respect to the protection of the Antarctic environment and the conservation of its living resources, and U.S. involvement in the Antarctic.

The protection of Antarctica is not just an esoteric environmental issue. Antarctica represents 10% of the earth's land mass. Because of Antarctica's central role in regulating global environmental processes, impacts there could adversely affect the world's atmospheric and oceanic systems, including global tides and sea levels. Disruption of these systems could well influence the health of our coasts and seas, impacting maritime and fisheries industries, not to mention the overwhelming proportion of Americans and citizens of other nations who live on or near a coast. The nearly pristine nature of the region provides a platform for research that is crucial to the understanding and monitoring of global change phenomena, including global warming, ozone depletion, and atmospheric pollution. The protection of Antarctica, therefore, is important for the citizens of the world.

Antarctica, a continent larger than the U.S. and Mexico combined, is owned by no one. It is governed by the Antarctic Treaty System, a collection of international treaties and recommendations which articulate policies and permitted activities in the Antarctic region. Forty nations have agreed to abide by the Antarctic Treaty System. International treaties are the necessary first step in conserving the Antarctic environment. But they are

meaningless unless effective implementing legislation is enacted by participant countries, and a lasting national commitment is consciously made by participant governments.

Because the members and staff of the Committee on Merchant Marine and Fisheries have built up the expertise necessary to work on these issues, this Committee has been able to take the lead in developing domestic legislation to implement those treaties and conventions critical to Antarctic conservation:

- * **The Antarctic Conservation Act of 1978** implemented the Agreed Measures on Flora and Fauna, measures which outline the rules of conduct for the preservation and conservation of (non-marine) living resources in Antarctica, lay the basis for the protected area system, and define materials which may be brought to Antarctica, and the method of their disposal.

- * **The Antarctic Marine Living Resources Convention Act of 1984** implemented the Convention on the Conservation of Antarctic Marine Living Resources, the only international treaty designed to sustainably manage Southern Ocean fisheries. This Act directed the U.S. to implement research programs which generate the data needed to implement strict conservation measures. The Southern Ocean represents 10% of the world's oceans.

- * **The Antarctic Protection Act of 1990** prohibits all mineral resource activities by U.S. citizens and anyone subject to U.S. jurisdiction, and was passed to head off the possible ratification of a treaty designed to regulate mining in the Antarctic. It called on the U.S. to enter into an international agreement designed to permanently prohibit mining in the Antarctic, and to comprehensively protect the Antarctic environment. As a result the Convention on the Regulation of Antarctic Mineral Resource Activities was not ratified, and negotiations were begun on an Antarctic Environmental Protocol.

- * **The Antarctic Environmental Protocol Act of 1993**, introduced at the beginning of the present Congress, is designed to implement the Protocol on Environmental Protection to the Antarctic Treaty, as called for in the Antarctic Protection Act of 1990. The Protocol bans all mineral resource activities for at least 55 years, and requires environmental impact assessments for all activities prior to their occurrence in the Antarctic. The Protocol advances basic U.S. goals of protecting the Antarctic environment, while preserving the unique opportunities the region offers for scientific research of global significance. The Senate gave advice and consent to ratification in the last Congress, but implementing legislation is needed for the President to ratify. Timely implementation and ratification of the Protocol will help safeguard Antarctica's status as a global wilderness area and scientific laboratory.

We urge that the Joint Committee take into consideration the possible effects on the domestic and international environment, on fisheries, on oceans, and on Antarctica, in

evaluating the recommendation to disband the Committee on Merchant Marine and Fisheries.

The apparent efficiency offered by this solution will weaken, not strengthen, the ability of Congress to make the important decisions required for sound U.S. policy on the oceans and environment of the U.S. and of the world. By disbanding the Committee, there is less chance that the polar regions of the world, including Antarctica, will get the consideration that they deserve. We urge that the House Committee on Merchant Marine and Fisheries be retained.

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TESTIMONY OF

ARTHUR B. SACKLER

on behalf of the

MAILERS COUNCIL

before the

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

June 29, 1993

TESTIMONY OF
ARTHUR B. SACKLER
on behalf of the
MAILERS COUNCIL
before the
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
June 29, 1993

Good morning. The Mailers Council very much appreciates the opportunity to present its views before this Joint Committee today. My name is Arthur B. Sackler and I am Managing Director of the Council.

The Council is a coalition of 60 organizations deeply concerned about postal affairs. Its member companies and trade associations, comprised of the largest and some of the smallest mailers, with a range of interests that includes every postal class and subclass, collectively account for a major portion of the mailstream. The organizations together employ more than 2 million people and represent more than 23,000 companies. Council members have an enormous stake in the system for delivery of products, publications, business correspondence, payments and receipts, promotions and more. The Council strongly supports a robust, healthy, and efficient Postal Service.

At the outset, the Council wishes to express its support for this Committee and its mission. It is fundamental that Congress, like any other responsible institution, should reexamine itself periodically to determine whether its structure meets the needs that it serves. And in Congress' case, those needs are very special indeed, collectively serving the public interest of this

nation.

To state the obvious, reexamination does not always necessitate change. One change that the Council believes should not be made is the elimination of the House Post Office and Civil Service Committee, as has been suggested before this Joint Committee. Reexamination of the jurisdiction, work and results of that Committee, the Council is confident, will confirm the wisdom of its continued existence. From overseeing the nation's largest work force to the organization that touches the lives of more citizens day in and day out than any other federal entity, to the census and more, this Committee covers an array of issues that may not be "sexy" but is now, as it always has been, fundamental to the efficient operation of this nation and the government that serves it.

The House Committee's Chairman, Bill Clay, and Ranking Member, John Myers, testified before you about the breadth and specifics of the Committee's activities. While we endorse their recitation of the Committee's scope and value, we won't repeat it. Rather, the Council will address the area where it works with the Committee, postal affairs.

The Postal Service is perhaps the least known \$50 billion institution in the country. Its carriers and clerks serve every corner of America every day, at roughly 110,000,000 addresses. Nonetheless, virtually no one in the public at large knows how

-4-

the institution operates, how decisions on matters such as postage rates or the purchase of automation equipment are made, or who, beyond the Postmaster General, runs it.

The Service, while chartered by Congress to function like a corporation, is not a corporation. It has no shareholders. Its Board of Governors, although a diverse group of accomplished individuals from around the nation, has been set up to be like a board of directors, but is not a board of directors in a very important sense. None of the Governors can have a direct financial stake in the institution. In a typical corporation, board members will own stakes ranging from a token to huge blocks of shares. They bear not only fiduciary responsibility, but their decisions have a very direct and sometimes dramatic personal impact. The Postal Rate Commission is designed to review rates and classes and certain limited other matters.

Thus, there is no overarching check upon the Service other than the Congress. The Congress must take the role of shareholders and directors with a personal stake in how well the system does. We believe the House Post Office and Civil Service Committee has traditionally served that purpose very well.

As we understand it, a proposal before you is to fold the functions of the Post Office and Civil Service Committee into those of the House Government Operations Committee and turn it

-5-

into a Governmental Affairs Committee. This would follow the model of the Senate. The model, however, in our view does not easily transfer.

The Postal Service by its very nature is intensely local. While some things can be addressed on a regional or a national level, the bulk of the operation and its 40,000 post offices and 700,000 plus workers is local. Most of its problems are local, as well. The pick up of mail, its sorting and delivery, the sale of stamps at post offices, business interactions with the system, all are local. Personnel grievances, questions about integrating automation into a local operation, the closing of a post office, the recent tragedies confronting the system, all are local.

The nature of the House, with more legislators and generally smaller jurisdictions, intrinsically makes it better attuned to deal with local problems. In short, what is right for the Senate isn't necessarily right for the House. There is both room for, and the need for, a standing committee in the House. If the House followed the Senate in this case, the ability of the House to act as a check on the activities of the postal system would be eroded.

As you may know, current Postmaster General Marvin Runyon has been able to make progress in one year at USPS that is nothing short of revolutionary. His restructuring and cost

-6-

containment programs have thus far been dramatic successes, which the Council applauds and supports. Nonetheless, he will not always be Postmaster General. Nor is the institution not without its problems even under his leadership.

The future confronts the postal system with major challenges. Right now, the Postal Service's marketshare is under direct assault; faxes, e-mail, telemarketing, cable television, private hard-copy distribution services -- not to mention traditional, dominant private carriers like Federal Express and UPS -- and the new interactive, "electronic superhighway" on the horizon, all challenge the Service. USPS' marketshare of first class messages -- bills, financial statements, business correspondence and more -- the bread and butter of USPS, could diminish drastically over the next decade.

Legislative change to permit USPS to respond efficiently and swiftly may become imperative. While obviously not impossible to legislate from a subcommittee position, it is clear that speed, expertise and resources all would be affected adversely without a standing, full committee. To reshape the system in a way that better serves the public interest requires commitment and attention over a period of time. This can only come with a standing committee.

For these reasons, the capacity for extensive and very

-7-

specific oversight and legislating is necessary. In our view, it simply cannot be done in the way it should with more limited resources, and a perpetual vying for attention with a breathtaking array of issues before the full Committee.

This contrasts with the Senate which, by its nature, requires Senators to address that kind of broad array of issues at all times. A subcommittee, then, may suit the Senate's needs and its capabilities. Needless to say, we certainly are satisfied with the high level of quality and responsiveness of the Senate Federal Services, Post Office, and Civil Service Subcommittee.

Finally, the Post Office and Civil Service Committee has been criticized for the relationships it has developed with the "narrow" interests that come before it. The Council clearly could be said to be one of these interests.

In part, the notion of narrowness is dispelled by the very breadth of this Council. But more importantly and more bluntly, notwithstanding the relationship we have with the Committee, it has reviewed issues in a balanced and independent way, arriving at judgments in the manner it deems best. Just in this year, there have been outcomes reached, despite our concerns, that the Council views as quite problematic in a number of respects. The Committee made judgments of what serves the public interest that

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-8-

did not always agree with ours.

Therefore, this Committee should remain, for all the reasons discussed. We respectfully urge that you decline the recommendation to eliminate the House Post Office and Civil Service Committee.

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May, 1993

STATEMENT OF
THE MARINE FISH CONSERVATION NETWORK

BEFORE THE JOINT COMMITTEE
ON ORGANIZATION OF THE CONGRESS

AT A HEARING ON PROPOSALS TO
RESTRUCTURE THE CONGRESS

DELIVERED BY
GERALD B. LEAPE
GREENPEACE

JUNE 29, 1993

Mr. Chairman, my name is Gerald B. Leape and I am the legislative director for Ocean Ecology for Greenpeace. I am grateful for the opportunity on behalf of Greenpeace and the Marine Fish Conservation Network, to appear before you today to give input to your plan to restructure the Congress to reduce costs.

The Marine Fish Conservation Network consists of 25 conservation groups, commercial and recreational fishing groups who have come together around a primary objective of making conservation the primary objective in U.S. fisheries management. The vehicle for achieving our goals is the reauthorization of the Fishery Conservation and Management Act of 1976. The Marine Fish Conservation Network is lead by a steering committee composed of representatives of the following organizations, Greenpeace, Center for Marine Conservation, World Wildlife Fund, the National Audubon Society and the National Coalition for Marine Conservation. These groups have made reauthorization of the Fishery Conservation and Management Act a top priority.

Since our work in the House of Representatives is solely with the Merchant Marine and Fisheries Committee, I would like to focus on the recommendation by some that your commission dissolve the Merchant Marine and Fisheries Committee and move their issues to Natural Resources and Public Works and Transportation. We are strongly opposed to the idea for a number of very important reasons that I will detail below:

Our fisheries are in a state of crisis. With limited exceptions, our fish catches around the country are declining. Without strong effective reforms in fisheries management, fish stocks will continue to decline at a more precipitous rate prompting an ever increasing reliance on imports of fish caught by foreign fleets whose catches are suffering similar declines. In addition, the ramifications of declining fish populations on the rest of the marine ecosystem are beginning to come to light. Many marine mammal populations are declining in numbers and their young are reduced in size because of their reliance on these declining fish stocks for food. Before we suffer from a broad ecosystem collapse, we must answer the tough questions.

The only committee with the experienced staff, the dedicated chairman and the members for whom a viable fishing industry is critical is the Merchant Marine and Fisheries Committee. They are the only committee that is prepared to answer the difficult questions, propose the needed reforms to make our fishing industry sustainable and to maintain viable fish populations.

In addition, they are one of the most productive committees in the House and have been solely responsible for most of the progress we have made on environmental issues related to the marine environment. The MM&F committee, under the leadership of the late Rep. Walter Jones and the current chair Rep. Gerry E. Studds, have utilized their committee's authorization to begin to establish an integrated ocean policy. These efforts, based on

cooperation between the members, has built a professional staff that knows how to get things done. Dissolving this committee would set this country back two decades in its efforts to be a world leader in its efforts to protect the marine environment from detrimental human impact.

On fisheries, the MM&F committee saw the need to establish a management system for our U.S. commercial fishing fleet and passed the original fishery conservation and management act in 1976. By also being the home to the Marine Mammal Protection Act and the Endangered Species Act, the committee is able to ensure that these laws are acting in tandem to complement each other and not at cross purposes. While feeling ownership for their original efforts, they have also recognized that fisheries management is an evolving process and that fundamental reform of current management practices might be necessary. This willingness to listen and to work with us has given us good reason to hope that we may achieve many of the networks goals through this reauthorization.

Before you say to yourself, the Merchant Marine and Fisheries is just a pawn of the environmental community, let me dispel that thought immediately. They listen to all sides of the debate and then use their own professional knowledge to draft what they think is the proper solution. Sometimes we agree with their answer, sometimes we don't.

In addition, it has come to our attention that a proposal has been put forth to change the name of the Merchant Marine and Fisheries Committee to the Marine Affairs and Environmental Policy Committee. Being that this committee has authority for the National Environmental Policy Act, the Marine Mammal Protection Act, the Fishery Conservation and Management Act of 1976, the Coastal Zone Management Act and the National Marine Sanctuaries Act and the Endangered Species Act, we think it only fitting that this proposal be approved.

From an organizational point of view, Greenpeace is strongly opposed to any plan to dissolve the Merchant Marine and Fisheries Committee. Over the last two decades, Greenpeace has worked with the Merchant Marine and Fisheries Committee on a myriad of issues; saving Antarctica, eliminating large-scale driftnets, reducing dolphin deaths in tuna nets, commercial fisheries management reform, saving the whales from the commercial harpoon. With their leadership on these important issues we have made substantial progress towards conservation on many of these areas. On many of these issues the committee has played a critical role in achieving the success to date.

At the risk of restating the obvious, we cannot tell you enough how strongly we feel about maintaining those issues within the Merchant Marine and Fisheries Committee. The Merchant Marine and Fisheries committee was the most productive committee in the House during the 102nd Congress and with action pending

before this Committee on the Endangered Species Act, the Marine Mammal Protection Act, the Fishery Conservation and Management Act the rest of the 103rd Congress promises to be just as busy. Even Ornstein and Mann acknowledge that "the MM&F committee has been a much more wide ranging panel under Chairman Studds than it was under his predecessors". This varied slate of statutes should be enough to convince you that this is far from a single constituency committee. With an EEZ that is double our nations land mass and half of our population living within an hours drive of the coast, it is critical to keep these issues under the jurisdiction of a single committee. Our ocean policy is not yet visionary but we are making progress toward that goal.

To get there, it will take members for whom this is a priority and a staff that understands the problems and how to get to solutions. Merchant Marine and Fisheries Committee has that representation and that staff. The two committees that would take on MM&F issues have other priorities and do not understand the gravity of the crisis of our oceans or have the trained staff to address the issues.

However, we understand that another proposal put before you is to reduce the number of subcommittees from five to four per committee with certain committees such as appropriations and others being exempt. We believe that this proposal has some merit as we in the non governmental organization community have experienced great frustration in urging members of congress to

fully participate in each of their assigned subcommittees.

In closing, I, on behalf of the Marine Fish Conservation Network, strongly urge you to reject the proposal to dissolve the Merchant Marine and Fisheries Committee. The institutional experience, the trained staff, the members for whom oceans are a priority and the coordination of these issues in one committee is essential if we are to continue to make progress in national and international efforts to save our oceans. Thank you again for the opportunity to testify and I would be happy to answer any questions.

Endangered Species Coalition

*Celebrating the
Diversity of Life:
Twenty Years of the
Endangered Species Act*

Testimony of Karyn Strickler Executive Director Endangered Species Coalition

My name is Karyn Strickler and I am the Executive Director of the Endangered Species Coalition, a consortium of 78 groups ranging from environmental organizations to industry. The Coalition is working to educate the public about the Endangered Species Act. The Coalition represents over 5 million individual members.

I am here to testify against the abolition of the Merchant Marine and Fisheries Committee. From the time when John Dingell chaired the Committee, the Merchant Marine and Fisheries Committee has reauthorized the Endangered Species Act in 1978, 1982 and 1988. The Committee members and staff have acquired an expertise which has ensured the integrity of one of our nation's most important environmental law.

The Endangered Species Act has become a model for countries around struggling to find a solution to species loss. It is the cornerstone of our nation's commitment to protect biodiversity and prevent further extinction both at home and around the world.

First enacted in 1973, the Endangered Species Act provides a flexible framework for resolving conflicts between development proposals and the survival of species. This is a critical juncture for the Endangered Species Act, as this landmark legislation is currently up for reauthorization. Our country needs the expertise of this committee and its staff because they understand the significance of this law as it relates to the environment and to long-term economic stability.

The Pacific Coast Federation of Fishermen's Associations (PCFFA), the largest organization of commercial fishermen on the west coast recently joined the Endangered Species Coalition. They provide an example of an industry that supports the Endangered Species Act because of the increasingly important protection and restoration of the Pacific Northwest and Northern California salmon runs, most of which have been depressed to the point where many are facing extinction.

The salmon fishing industry contributed more than 62,000 jobs and \$1.25 billion in personal income to the Pacific Northwest and Northern California as recently as 1988. Since that time, the decline of salmon fishing industry has been staggering. Without the Endangered Species Act many of the PCFFA members would



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be out of work due to a sharp decline in the salmon population caused by damage to salmon habitat.

The salmon fishing industry benefits from the Merchant Marine and Fisheries Committee's expertise in commercial fishing and the Endangered Species Act.

Regarding the environmental significance of the Endangered Species Act, 500 plant and animal species have become extinct in the U.S. since the time Columbus reached the New World. Gone forever are the Atlantic gray whale, California grizzly, Eastern cougar and many other species. In Hawaii, half of the endemic birds, more than sixty species, have been lost since the islands were first settled.

Nearly 700 plants and animals are listed as in danger of extinction and more than 3800 await legal protection as candidate species under the Endangered Species Act. These numbers may be artificially low. In its 1991 annual report, the President's Council on Environmental Quality states that more than 9,000 species in the U.S. may be at risk.

Populations and subspecies are indicators of ecological health. The decline of bald eagles and peregrine falcons in many parts of the U.S. made people realize that DDT and other persistent pesticides were reaching dangerous levels in organisms at the top of the food chain.

Each loss of a species snuffs out untold chances for possible treatments and cures. For instance, the bark of the Pacific yew tree, found primarily in the fast-disappearing old-growth forests of the Pacific Northwest, is an important source of the drug taxol. The National Cancer Institute calls taxol the most promising new drug in 15 years because of its dramatic success in treating ovarian and breast cancer.

This complex issue requires the experience which the Merchant Marine and Fisheries Committee has developed over the years. The Endangered Species Coalition feels that abolition of this Committee would be counterproductive and invite legislative gridlock on this controversial, but important issue. In fact, we feel that to abolish the committee would bring the process of the Endangered Species Act reauthorization to a halt. In order to promote efficiency, please leave the Merchant Marine and Fisheries Committee intact.



MONITOR

THE CONSERVATION, ENVIRONMENTAL
AND ANIMAL WELFARE CONSORTIUM

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Statement on the Merchant Marine and Fisheries Committee

To the Joint Committee on the Organization of Congress

By Craig Van Note

29 June 1993

I am executive vice president of Monitor, a consortium of conservation, environmental and animal welfare groups. Today I am testifying on behalf of the following organizations:

- The Humane Society of the United States
- Defenders of Wildlife
- Earth Island Institute
- Rainforest Action Network
- International Fund for Animal Welfare
- American Cetacean Society
- International Wildlife Coalition
- American Humane Association
- Cetacean Society International
- Environmental Investigation Agency
- The Fund for Animals
- Humane Society International
- In Defense of Animals
- International Primate Protection League
- Marine Mammal Fund
- Performing Animal Welfare Society
- Society for Animal Protective Legislation
- Whale and Dolphin Conservation Society

We are specifically addressing a proposal before the Joint Committee to dissolve the House Merchant Marine and Fisheries Committee and disperse its various jurisdictions among other House committees. We believe that this proposal, made by outside consultants Ornstein and Mann, is ill-considered and would be counter-productive if carried out.

Two decades ago, the Merchant Marine and Fisheries Committee may very well have been a parochial committee serving largely commercial interests. But that was before conservation and environmental issues took center stage in the national and international political agendas. And this year, under the new leadership of Chairman Studds, the committee has become a powerful force in ecological protection.

Monitor statement
page 2

Today, the Marine Mammal Protection Act and the Endangered Species Act are the two landmark conservation laws, passed in 1972 and 1973, respectively, that have served as the blueprint for innumerable other laws, both domestic and foreign, seeking to preserve our planet's natural heritage. It is this committee that drafted these laws and which has given teeth to their enforcement.

The American people have given the highest priority to the protection of marine mammals and endangered species in poll after poll in recent years. We believe members of Congress will reflect this public sentiment when they weigh the proposal to cripple wildlife protection through abolition of the Merchant Marine and Fisheries Committee.

We have little doubt that wildlife conservation would be set back severely if the committee was dismembered. In particular, the protection of marine life would receive far less attention in the terrestrial-oriented Committee on Natural Resources (formerly the Interior Committee), which has historically administered public lands, lakes, rivers and coastal areas.

The world's oceans, covering three-quarters of Earth, require the specialized attention that is the hallmark of the Merchant Marine and Fisheries Committee. All of the seas, including those off our shores, are in dire straits: collapsing fisheries due to massive over-fishing; toxic pollution spreading into the farthest corners; destruction of coastal wetlands; and the growing endangerment of whales, dolphins, sea turtles and seabirds, as well as many fish species. In recent years, the committee has taken the lead in addressing these critical issues. This is not the time to disassemble this leadership.

The committee and its staff have developed remarkable expertise in marine conservation issues -- perhaps more so than any other area of environmental protection in Congress. Over the past two decades, it has backed up the Marine Mammal Protection Act with highly effective legislation to enforce the protection of these species, through the Pelly Amendment, the International Dolphin Conservation Act and the High Seas Driftnet Protection Act.

Whale-killing has been dramatically reduced, from more than 55,000 in 1973 to fewer than 500 last year, because of the threat of Pelly Amendment sanctions against nations that violate the regulations of the International Whaling Commission. Even today, the Administration is weighing Pelly certification of Norway for its recent resumption of commercial whaling in defiance of the IWC ban.

Monitor statement
page 3

Similarly, the massive kill of dolphins in tuna purse seines has been cut from hundreds of thousands to just a few thousand because of strong amendments to the MMPA and embargo sanctions imposed against nations with high kill rates. In a remarkable joint effort with the United Nations, the committee was instrumental in achieving an international ban on the large-scale high-seas driftnets that were devastating the fish and wildlife of every ocean. Taiwan, Japan and South Korea last year pulled more than 1,000 driftnet ships off the high seas under threat of automatic U.S. embargo of their fishery products.

The committee is now taking aim at the collapsing fish stocks. This invaluable resource has been grossly mismanaged by the fishing industry and the governments of the world. Restoration of the rich fisheries can best be achieved if the House committee has as its primary objective the protection of ocean ecosystems.

The committee's conservation activities also extend to all endangered species on our planet. The Endangered Species Act, and the treaty organization it spawned, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), have been the primary instruments in reducing the pressures that are steadily driving thousands of species toward extinction.

Both ESA and CITES have become effective conservation laws because of the strong oversight of the Merchant Marine and Fisheries Committee. The ESA has been repeatedly strengthened through amendments. And CITES has become increasingly effective in recent years because of committee interest.

In 1988, for example, an extraordinary oversight hearing on the administration of CITES was held by the committee. A broad range of conservation and animal welfare groups and other experts laid out the weaknesses of U.S. leadership and international implementation of CITES. As a result of the hearing and subsequent legislation such as the African Elephant Conservation Act of 1988, the U.S. began a series of initiatives that led to the 1989 global ban on the ivory trade by CITES, an action that has stopped the decline of elephant populations. Trade pressures on other threatened species, such as wild birds and reptiles, have been reduced. Last year's Wild Bird Conservation Act, authored in the committee, is already saving millions of birds annually from the lethal depredations of the bird trade.

The committee's leadership has also been critical in the formation of the Biodiversity and Antarctic conservation treaties. Congress needs to strengthen its expertise in the field of global environmental issues, not cripple it through mindless reorganization.

Monitor statement
page 4

In their "Renewing Congress" study, Ornstein and Mann observe that "tinkering with the committee system is serious business." Their recommendation to dissolve the Merchant Marine and Fisheries Committee will be rejected by the House if there is a serious examination of its importance to the protection of the vast oceans of our planet. There must be one congressional committee with a primary focus on the marine ecosystems. Other committees should deal with terrestrial issues.

Reduction of the number of committees for the sake of reduction is a simplistic solution to a complex problem -- that of focussing the time and resources of the members and their staffs. There is great merit in reducing the number of subcommittees. But there is no good case for abolishing Merchant Marine and Fisheries. The committee's name is a misnomer; it should be retitled to reflect its broad overview of ocean and environmental issues.

We note that Ornstein and Mann acknowledge in their study that the committee "has been a much more wide-ranging panel under Chairman Gerry Studds than it was under his predecessors." The committee should be encouraged to continue its critical role in marine conservation and global environmental policy.

Mr. Chairman, I greatly appreciate the opportunity to present testimony on behalf of the more than three million members of these conservation, environmental and animal welfare groups. We look forward to participating in the debate on the fate of this vital House committee.

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**THE TESTIMONY OF THE COAST ALLIANCE
BEFORE THE
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS**

Present by

**Andrew Palmer
Vice Chair**

June 29, 1993

Thank you Mr. Chairman and members of the Committee for this opportunity to express our views on the reorganization of Congressional Committees. My name is Andrew Palmer and I am chief Political Director for the American Oceans Campaign. I also serve as Vice Chair of the Coast Alliance and it is in that capacity that I address you today. I am especially pleased that the Committee has decided to take this opportunity to hear from the networks and coalitions of groups whose principal concerns center on protecting and restoring our marine environment and Great Lakes.

The Coast Alliance is an organization consisting of members from national environmental groups, regional citizen's groups, and labor unions. The Coast Alliance was founded in 1979. It created the highly successful "Year of the Coast" campaign, designed to bring broad public awareness of the need for coastal protection. It participated in the 1980 reauthorization of the Coastal Zone Management Act (CZMA) and subsequent reauthorizations since then. The CZMA is the nation's premier coastal protection law, encouraging coastal states, Great Lake states, and territories to manage and protect their coastal resources.

The Coast Alliance has continued to educate the public to be an effective voice on coastal protection. Among some of its activities in the past few years, it has been active in efforts to improve and add to the Coastal Barrier Resources System (CBRS), worked to reform the National Flood Insurance Program, and held workshops on contaminated sediments, including the Great Lakes, and has educated the public on the need to strengthen national legislation to clean up these sediments. The Coast Alliance works with extensive networks of citizen grass roots organizations in virtually every coastal state in the nation.

As a result of the interests of Coast Alliance, the organization often found itself in the forefront of battles with previous Administrations who sought to destroy many vital coastal programs. While much media attention was focused upon the highly controversial reign of the Department of Interior's James Watt, most were unaware that many programs within the National Oceanic and Atmospheric Administration were also experiencing dark hours. Throughout the 1980's, Congress was repeatedly called upon to blunt Administration efforts to weaken key coastal programs -- chief among them the CZMA -- through legislative means

and through the Appropriations process.

Though there were many in Congress who assisted in the efforts to preserve and enhance coastal protection programs, the leadership of one committee in particular was instrumental in holding the line. This committee is the House Merchant Marine and Fisheries Committee. Had not this particular committee taken the lead, there is no question in our mind that serious damage would have been done by the previous Administrations to our national efforts at saving our coastal and marine heritage.

Why was this the case? Not because this is one of the most powerful committees in Congress, but because its membership is made up primarily of members from coastal or Great Lakes states, who have a particular appreciation for the aims and goals of such programs as the CZMA, the Coastal Barrier Resources System, the National Marine Sanctuaries Program, and related public laws. Another reason is that the Committee has assembled a highly competent professional staff to assist them in the development of much of this complex legislation.

This concentration of Congressional interest mirrors the importance of the coasts and the Great Lakes to our nation. A majority of our population now lives within an hour's drive of one our coasts or Great Lakes. This trend is expected to continue, with most of the new population increases expected to be in coastal areas, especially along the gulf coast and California. According to the Department of Commerce, between a third and a half of jobs are located in coastal areas. As a result, this Committee recognized early the critical importance of the relationship of a healthy environment and the economic well-being of the nation.

Had the responsibility for legislative stewardship of coastal protection been scattered around a number of committees and staffs in the House, especially committees with primary responsibilities having little to do with protection of coasts, it is our judgement that we likely would not have been as successful in saving many of the programs under attack over the last decade -- programs such as the CZMA. The focused interests of the members of the Merchant Marine Committee and its excellent professional staff were simply essential to our protecting and improving these programs over the past 12 years.

While history is important, we recognize that you are charged with a very specific and important task, to see if you can find ways to make Congress function better. We know there is significant pressure to make changes in organization and process of the House and Senate. We agree that there are changes which could make a positive difference in getting the work of our government done. But we would caution you against making changes which, in our view, would damage the very process you are trying to improve.

Looking at the legislative record of this committee in the recent past reveals an extremely productive record. In areas relating to management and protection of coastal, Great Lakes, and marine resources, we count some 77 bills passed by the Merchant Marine and Fisheries Committee over the past two Congresses that became public law. Included in this is the 1990 reauthorization of the CZMA, which included some of the most extensive and progressive changes to the program since its inception in 1972, and the expansion of the CBRs.

The specialized expertise of the staff and members of the Committee in complex areas of legislation relating to coastal protection, the marine environment and fisheries has been critical in producing generally good legislation. We fear that scattering the responsibility for these laws to other, already overtaxed committees and their staffs, would very likely result in lower quality legislation and lower productivity. We are certain that this Committee would not intend such results and that such results are, in fact, counter to your goals.

As you know, the Merchant Marine and Fisheries Committee has just this Congress passed to new leadership. The new chairman is a member with whom our organization has had a long experience. Though we do not venture to speak for him, we are certain that Chairman Studds shares your view that there is a critical need to develop more effective Congressional processes. We strongly urge you to give him and his staff the opportunity to work with his committee to bring about the kind of changes that are being sought here.

Finally, the Coast Alliance has witnessed an explosion of public knowledge and interest in marine conservation and coastal protection over the past decade. The numbers of local groups we now work with around the country have multiplied tremendously. Government hearings on marine issues now bring out hundreds, and sometime thousands, of local people to voice their opinion. We are convinced that it would be a serious mistake and send a very negative message to millions of people around the country if this Committee were to recommend the abolition of the one Congressional committee devoted primarily to stewardship of the marine environment. We will support change that will improve Congressional process, but this change should not compromise the protection of our nation's coastal and marine resources. Therefore, we urge you to retain the House Merchant Marine Committee as a permanent committee of the House.

June 29, 1993

JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
STATEMENT FROM SENATOR DIRK KEMPTHORNE

Mr. Chairman and members of the Joint Committee on the Organization of Congress, I appreciate this opportunity to submit my views on the issue of improving Congress. I know that several Members of Congress have previously testified in support of important reforms that would change and improve Congress. I fully endorse proposals to impose term limits on Members of Congress, to reduce Congressional budgets by 25% and to reduce the size and authority of Congressional staff. These are important proposals, and worthy of your support.

Rather than emphasize my support for these proposals in this statement, I want to bring to your attention a specific problem that reduces the effectiveness of Members of Congress. I regret that I am unable to attend today's hearing and to discuss with you personally my thoughts. Unfortunately, this hearing is scheduled at the same time the Senate Armed Services Committee, on which I serve, is holding a hearing on manufacturing technology and its effect on the defense industry.

Mr. Chairman, it is ironic that a scheduling conflict has kept me from testifying in person today. It is ironic because my testimony today is about the problem of overlapping committee hearings that cause constant scheduling conflicts.

Let me begin by saying that it is an honor to serve the citizens of Idaho in the United States Senate. As a freshman Senator from Idaho, I want to represent the constituents from my state to the best of my ability. I regret, however, that constantly overlapping committee schedules prevent me from doing so.

My three committees -- Armed Services, Environment and Public Works and Small Business -- often meet at the same time. When that happens, there is no way I can meaningfully participate in all three committee hearings or mark-up sessions.

So far this year, there have been 13 times in which two of my committees met at the same time. That is 26 hearings scheduled at the same time. Last month, my committee schedule overlapped 30% of the time. In other words, for one-third of my hearings, I had to choose between hearings conducted by either the Armed Services, Environment and Public Works or Small Business Committees.

Here is a specific example. Once I had to choose between

attending the Armed Services Committee where Defense Secretary Les Aspin and General Colin Powell testified on Defense Authorization requests for FY 1994 and the Environment and Public Works Committee where EPA officials testified on the proposal to abolish the Council on Environmental Quality.

I know I am not the only Senator that has problems with two committee meetings occurring at the same time. Given these concerns, Mr. Chairman, I would like to recommend a new approach to committee scheduling to avoid these conflicts.

I suggest that each committee be placed in a unique three-hour time period. This block of time would allow each Senator to participate in each of his or her committees without the concern of missing another committee meeting of equal importance. To make this proposal work, the Senate would have to reduce the number of Senate committees and subcommittees and make more efficient use of time spent in hearings. The Senate would also have to eliminate overlapping committee jurisdictions. Here are two examples:

- The Senate Energy and Natural Resources Committee held a hearing and a mark-up on the nomination of George Frampton to be

an Assistant Secretary of Interior. The Senate Environment and Public Works Committee did so as well.

-- Both the Senate Commerce, Science and Transportation Committee and the Environment and Public Works Committee have jurisdiction over transportation issues.

Now is the perfect opportunity to review and revamp committee jurisdictions.

To summarize, Mr. Chairman, I fully endorse Congressional reform proposals to impose term limits on Members of Congress, to reduce Congressional budgets by 25% and to reduce the size and authority of Congressional staff. These are important proposals, and worthy of your support. You have received testimony in support of these reforms, and I endorse these calls for reform.

I also believe that designated time periods for committee meetings would allow all Senators the chance to regularly attend committee meetings without having to juggle two or even three concurrently scheduled committee meetings. To make this proposal work would require reducing the size and number of committees and reforming overlapping committee jurisdiction.

I appreciate your suggestion.

ROB PORTMAN
SECOND DISTRICT, OHIO

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**STATEMENT BY CONGRESSMAN ROB PORTMAN TO THE JOINT COMMITTEE ON
THE REORGANIZATION OF CONGRESS**

Mr. Chairman. I want to thank the Joint Committee on the Reorganization of Congress for allowing me this opportunity to submit some observations on how Congress might operate more efficiently and at a reduced cost in tax dollars. I would specifically like to address the issue of Congressional committees.

As a newly-elected member of Congress, I do not enjoy the wealth of in-house experience that you and many of our colleagues possess. But, I have interacted with Congress on a number of occasions in the past when I worked in The White House Office of Legislative Affairs in the Bush Administration. From these experiences and my brief tenure here, I do feel that I have something to offer in this area.

Among other issues, I am concerned that the number of committees, especially subcommittees, has gotten out of hand. I feel that there are too many panels, they are too large and, all too often, have overlapping jurisdictions that duplicate efforts and sometimes work at cross-purposes adding to legislative gridlock. In the first session of the 102nd Congress there were 22 standing committees with 135 subcommittees and five select committees with 11 subcommittees. Although there was some consolidation of subcommittees and the elimination of the select committees earlier this year (a step in the right direction), there still is room for additional committee consolidation. I might note that in 1951 there were 19 standing committees and only 73 subcommittees.

We all have read the stories, and I have seen firsthand, where senior Administration officials spend countless hours testifying on Capitol Hill before a multitude of panels with overlapping interests in programs. Without question, any Administration must be accountable to Congress for its actions, but I question if it is in the best interest of the public for senior officials to come to the Hill time and again to rehash arguments previously stated only a day or so earlier before another committee.

Reducing the number of panels would result in more centralized policy making, which I believe would increase Congressional efficiency and output. Members would have fewer committee assignments and would have the opportunity to focus more on their committees and become more knowledgeable about their panel's activities. Among other things, members would actually have more time to be able to attend hearings. We have the unfavorable spectacle of witnesses testifying to committees and subcommittees, where only one or two members of Congress are

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Rob Portman
Page Two

present. Such an action would also save money in terms of staff salaries and other expenses incurred through jurisdictional duplication.

I also feel that there would be merit in limiting the tenure of committee chairs and vice-chairs as well as placing limits on how long an individual would serve on a panel. Such actions would improve oversight of federal programs. Members who had no roles in the establishment of federal programs would not have the interest in perpetuating those that have outlived their usefulness. Membership changes also would enable more fresh perspectives and ideas, broaden members' knowledge of issues and enhance the quality of floor debate. In addition, it would make periodic committee reorganization easier since members would not have such strong ties to the panels.

Mr. Chairman, I commend you and your colleagues on the Joint Committee for your diligent efforts in striving to make this institution in which we are privileged to serve the best and most efficient deliberative body in the world. The American people deserve no less.

ENI F.H. FALEOMAVAEGA
Member of Congress

STATEMENT OF

ENI F. H. FALEOMAVAEGA
MEMBER OF CONGRESS

before the

JOINT COMMITTEE ON CONGRESSIONAL REFORM
JUNE 16, 1993

Mr. Chairman:

Thank you for the opportunity to present this testimony to the Joint Committee on Congressional Reform.

As a third-term Member of Congress, I have been a member of the House of Representatives a short enough time to remember the problems I saw as I was acclimating myself to Congressional life, yet I have been here long enough to see the value of many of the traditions of this institution.

The main problem I have noticed with the organization of the House of Representatives is with the jurisdiction of the various committees. With the combination of House precedents and current jurisdictional definitions contained in the Rules of the House of Representatives, it has been my experience that major legislation is referred to too many committees, and smaller legislation can be directed toward any of several committees depending on the words used in drafting. I think this is terribly inefficient, and could be improved considerably by creating new jurisdictional statements for each committee, and abandoning the use of precedent based on previous rules. If this were carefully done, it would reduce significantly the number of joint and sequential referrals, and provide advance notice to sponsors of legislation as to which committee new legislation would be referred.

A second suggestion I have with regard to committee organization is that I think it would be beneficial if there were companion committees in the House and Senate. For

Hon. Eni Faleomavaega
June 17, 1993

example, currently the House has a Committee on Education and Labor and the Senate Committee has a Committee on Labor and Human Resources. While there is some overlap between the two committees (labor issues), there are many issues which would not go to the same committee in both houses. In my opinion, this increases the inefficiency of Congress as a whole, and there are no corresponding benefits derived from this organizational structure.

A third suggestion I have with regard to the committee system is on the current seniority system. I support the current system without change. In my opinion, the present system gives members an opportunity to observe the other members' performance in the various committees before they are required to elect chairmen or ranking minority members. It keeps committee chairmen and ranking minority members responsive to the entire caucus which elects them, yet provides some stability to national policy by providing a certain amount of tenure. I oppose fixed limits on committee chairmanships because it would result in a lower level of expertise of both committee members and staff. The value of this system outweighs, in my opinion, any minimal gains to be derived from the influx of "fresh blood", which would be achieved by forced changes in chairmanships.

I also have some comments on the status of delegates in the House of Representatives.

Since the inception of our nation, Congress has afforded territories of the United States some form of representation. Traditionally, and the tradition goes back well over 100 years, there has been one delegate per territory, regardless of the size of the territory. That is true today, and my district of American Samoa, with 50,000 residents, has the exact same representation as the resident commissioner from Puerto Rico which has over six million residents. While this is not consistent with the one person, one vote model used for representatives from the states, it is consistent with the traditions of the Congress, and is analogous to representation in the United States Senate.

With regard to the change in voting privileges given to delegates earlier this year, while I appreciate the concern of a majority of the Democratic Caucus shown in providing this gesture of increased representation, I believe the symbolic value of the vote is far outweighed by the increased animosity it has caused within the House of Representatives. As the delegate from the territory with the smallest population, I have been the whipping boy of every attack on this symbolic gesture.

From my perspective, given the new realities of territories which will not become states, perhaps it is time

Hon. Eni Faleomavaega
June 17, 1993

to consider a new form of representation for the out-lying territories. Under the current organization, the United States is subject to criticism of remaining a colonial power. Currently the delegate from Guam and other of its elected leaders use this term frequently. And while the United States currently treats its territories very fairly, if push were ever to come to shove, the United States has the power to tax the citizens and nationals residing in the territories at any rate it chooses, and the citizens and nationals being taxed do not have a voting voice in the process. Additionally, Congress has the power to conscript the citizens and nationals residing in the territories into its armed forces, yet these citizens and nationals do not have a vote in the Congress. In this sense, the territories are treated as colonies. To be fair, however, if the territories were given increased representation, I believe the territories should be subject to increased taxation.

This is an issue which should be addressed at some point, and the joint committee may be a reasonable forum to do that.

In summary, let me say that while the current status of the Congressional delegates is satisfactory, I see ways in which it could be improved.

Thank you again, Mr. Chairman, for the opportunity to present my thoughts. I realize that on some of these issues I me stand alone, and I appreciate the time you and the other committee members have taken to take my views into consideration.

**Coalition for a
Select Committee
on Hunger** 2001 S Street, N.W., Suite 530
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TESTIMONY BEFORE

THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

BY

MARIANNE LEACH
ASSISTANT DIRECTOR, WASHINGTON LIAISON OFFICE, CARE

ON BEHALF OF

THE COALITION FOR A SELECT COMMITTEE ON HUNGER

JUNE 29, 1993

Mr. Chairman and Members of the Committee on the Organization of Congress. Thank you for the opportunity to testify.

My name is Marianne Leach. I speak on behalf of a broad-based coalition of more than 420 organizations across this country, representing citizens, religious, labor, farm, women, international development, health, children, community action, food pantries, homeless, student, elderly, and many other groups which strongly support policies to end hunger and poverty and promote food security here in America and throughout the world.

I am here to urge this Committee to establish a standing committee which will have the clear mandate and task to address hunger, human need, poverty alleviation and food security -- one that will have the responsibility to address the causes, look for solutions and develop a comprehensive and coordinated food policy that will serve both our domestic and international needs.

Food security as a policy issue requires our attention as a democratic society because it is vital to the well-being of millions of Americans and many millions of people around the world.

Our present Congressional institutional structure has a very fragmented food policy. We have committees responsible for food production and the welfare of food producers, but no committee for a comprehensive food policy and the welfare of food consumers. We have separate committees responsible for food stamps, for child nutrition, WIC, and elderly nutrition; we also have committees for food safety and health issues, as well as others responsible for international food assistance, and nutrition research. Despite levels of coverage for these various pieces of the hunger puzzle dispersed among many committees, there is no single committee that looks at the whole picture of hunger and its multi-faceted components. There is little focus or coordination, and much fragmentation.

This fragmented approach never presents the full picture and blinds Congress to the institutional nature of these issues and how to prepare effectively for their resolution and for the future. It even makes it difficult to address short-term emergencies due to the confusing system of jurisdiction and competing issues.

During the 1990s Congress will appropriate nearly \$500 billion for food programs to help hungry Americans, additional billions to prevent starvation and chronic hunger worldwide, provide more funding still for food safety, nutrition research, and nutrition education. Although these figures are estimates, they do indicate that we will make a significant investment in trying to provide a modicum of food security and safety. The American people expect this money to be used wisely and intelligently.

Perhaps it will, but this may be purely accidental. While Congress, and, by extension, the Executive Branch, have a farm policy and an agricultural program, there is no comprehensive

food policy, nor has Congress acknowledged the institutional framework of food as a policy issue. In addition, Congress has not been able to deal organizationally with food security strategies because it continues to focus on food production--an area which has not really required legislative attention for nearly 60 years. From the time of the Great Depression, it is the issues of food distribution and food access issues that have become dominant in public policy, yet are dealt with inadequately by Congress.

As a result, the remaining problems of domestic and international hunger do not fit easily into the institutional organization that Congress has developed to do our business. Congress has certainly not been unaware of this shortcoming and, in the past 20 years has been forced to work through temporary mechanisms, such as the select committees on hunger, first in the Senate and then in the House. However, these steps end up bruising the existing institutional procedures and challenging the Congressional leadership structures. In both instances, these committees were eliminated; not because hunger ceased to be a problem, nor because the Congress made provisions to deal adequately with this complex and inter-related issue, but because these committees threatened the turf of standing committees. In effect, the entrenched organizational interests in Congress took precedence over human need.

We now have an opportunity to rationalize an organizational structure which is outdated and unable to meet the needs of the situation we find ourselves faced with. We must have a system which recognizes the critical importance of solving the hunger problem, addressing its causes and contributors, and sets about to do just that with a clear and unequivocal legislative mandate. Hunger is not just a symptom of poverty but rather the consequence of policy decisions--both those which governments fail to make and those which are not well-managed.

It is no secret that hunger and other basic human needs take a backseat continuously to sexier issues that garner political kudos and votes in Congress. Hungry people, no matter where we find them--around the corner or around the world--are basically invisible. They have no PACs, no powerful lobbying arms, and little access to the halls of power. How can this be when so many of our fellow citizens, as well as countless millions in the developing world, are effected so directly. We must ask where our responsibilities and accountability begin and end, both as a society and as the Congress, especially when these most basic unmet needs have both direct and indirect implications for us all--moral, social, economic, and political.

Congress must be able to look 25 years into the future in putting together the kind of organizational structure for legislating for the needs of a stable, peaceful American society free of hunger, unemployment and ill health and capable of providing the leadership internationally to sustain global resources, prevent hunger and promote sustainable development and the practice of democracy for all people.

Food, nutrition, and health have been and will be a major challenge in public policy. Last December in Rome the U.S. was one of 160 nations that was partner to the International Conference on Nutrition, adopting a World Declaration and Plan of Action which pledge to reduce starvation, chronic undernutrition, and micronutrient malnutrition substantially within this decade. Together these documents represent the most broadly-based commitment to eliminate hunger and malnutrition ever agreed to on a global basis. The U.S. endorsed the premise that

hunger and malnutrition are unacceptable in a world like ours that has the knowledge, the resources, and the creativity to end them. We also agreed that the slow progress in solving nutritional problems is as much a lack of political will as it is resources. We then affirmed that food security is a fundamental objective of development policy as well as a measure of its success. Now we must be held accountable for these promises, just as we must be accountable for the promises we made to the world's children at the Children's Summit four years ago. Which committee, or better which 10 or 12 committees in our Congress will hold oversight responsibility for meeting the obligations we have made as a nation, not just to poor countries but to our own people in our own country who do not yet share the American dream.

The U.S. has the highest incidence of poverty in the industrialized world: 20-25% of our children live in poverty now; for black children make that a staggering 50%. Over 27 million Americans are in the food stamp program—and that represents only about 60% for those that are in need. 12 million of our children are chronically hungry. And, of course, in the developing world, the figures are much starker—often staggering. I don't give this laundry list to shock but rather to remind that hunger and unmet human need and the lack of a rational comprehensive food policy remaining off the priority issues list for our Congress sorely threaten our national security, our economic and productive well-being, and the very health of too many of our people. We are eroding our investment in the future. If this is not the business of our Congress, then whose it is?

We propose, therefore, that this Committee on the Organization of Congress seriously consider the creation of a new permanent standing committee on Hunger and Human Needs that would focus on food security, nutrition, poverty alleviation, sustainable development, related research and educational activities, and food safety. It would handle both domestic and international perspectives. This Committee would look closely at causes and solutions. Undoubtedly, it would address areas and issues appropriate to its mandate presently under the jurisdiction of Committees such as Agriculture, Foreign Affairs, Banking, Ways and Means, Education and Labor, etc. Such a Committee would need stature, legislative authority, and an ability to be creative. To show that the Congress means business and is willing to raise these issues to a priority level not possible before, we would strongly recommend that this Committee be mirrored by both the House and Senate, wholly bi-partisan, with full authority to work the will of Congress.

We would conclude by saying that there is much support in the country for making these basic human needs a priority of Congress. A recent poll shows that 93% of the American people believe that hunger is a serious problem. The support for the House Select Committee on Hunger that poured in from every corner—surely you felt it—the lack of courage to hold a debate or a vote on its continuation—the outrage that was felt at its loss— is indicative of a mood change—that the public anger is rising and that the public expects no more business as usual.

We ask you to have this debate; we ask for a major reorganizational step in the creation of such a Committee. We pledge to work with you and the Congressional leadership in this endeavor.

Thank you again for the opportunity to testify.

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Statement of

Tyrus W. Cobb

President

Business Executives for National Security

submitted to

U.S. Congress

Joint Committee on the Organization of Congress

June 29, 1993

Mr. Chairman, Members of the Committee, thank you for inviting me to share our perspectives on Congressional reform with you today. I commend you for holding hearings on this important topic. I am Tyrus W. Cobb, President of Business Executives for National Security (BENS). BENS is a national, non-partisan organization of business leaders working to strengthen national security by promoting better management of defense dollars, advocating measures to make the economy stronger and more competitive, and finding practical ways to prevent the use of weapons of mass destruction.

BENS became interested in Congressional reform as a part of our efforts to improve the Pentagon's systems for planning and buying major weapons systems. We further examined this issue when we convened the BENS Commission on Fundamental Defense Management Reform. In our report released last February, we reached a basic but critical conclusion: if we want to improve the way the Pentagon buys weapons, Congress must also reform the way it oversees this process. The Pentagon has made a number of efforts to reform itself over the past few years, and these efforts are proceeding further under the leadership of Secretary Aspin. But, until the formation of this Committee, the Congress had done little to follow this example. We commend Senator Boren, Representative Hamilton and the entire Committee for leading this effort.

THE PROBLEM OF CONGRESSIONAL MICROMANAGEMENT

As the Committee certainly knows, Congressional micromanagement of the defense budget has become a growing problem. Congress is empowered by the Constitution to become engaged in national security affairs in three specific areas. First, it has the power to declare war; second, it has broad oversight

powers of the federal acquisition process; finally, it has the all important power to appropriate money. Ideally, Congress should function as a corporate board of directors, setting broad defense goals, establishing priorities among systems, force structure and readiness, providing general oversight, and approving long-term budgets in major defense priorities. In other words, Congress should focus on the "Big Picture" and leave the details to the Department of Defense.

In reality, however, Congress seldom works this way. Rather, it routinely micromanages the Pentagon by involving itself in the minute details of programs. The Senate Armed Services Committee recognized this problem back in 1985 when it decried the trend toward increasing micromanagement. Despite the best efforts of the Grace Commission, the Packard Commission, the BENS Commission, and others bodies, the situation has not improved since. For example, in last year's Defense Authorization Act the Congress asked for detailed reports pertaining to submarine shield shafts and fluid control valves, directed the Navy to buy more lifeboats than planned, and asked the Department of Defense to disseminate teaching materials to the nation's educational establishment.

Moreover, to make things worse, Congress adds a host of unnecessary items completely unrelated to national defense, and funds them from an increasingly smaller defense budget. For example, just last year the Congress spent Pentagon funding on 1) assistance to homeowners affected by Hurricane Andrew, 2) infrastructure assistance to historically Black colleges, 3) Arctic Ocean research and data collection, 4) breast cancer research, 5) planning for the 1994 World Cup, and 6) AIDS research. These are only a few examples; but there are many, many more.

This micromanagement produces program instability, which increases the cost of acquiring new systems. Furthermore, micromanagement contributes to repetitive audits, reports, and other paperwork. These pressures have

dampened the initiative of DoD acquisition personnel to run programs creatively. As the Packard Commission noted, "Excellence in defense management will not come from legislative efforts to control and manage the minutest aspects of DoD's operations."

SUGGESTED REFORMS

We do not suggest that Congress be removed from involvement in the details of national security debates. These issues are too important to be resolved without the input of our elected representatives. However, what is becoming painfully clear is that the current system must be reformed if scarce defense dollars are to be spent wisely. If we can restructure Congress' role in defense oversight, we will ensure that our national security policies are constructively influenced by legislative input. Although BENS focuses on national security issues, these reforms will improve oversight in other areas as well. As part of an effort to create this positive relationship, we would suggest a number of changes to the current oversight process. They fall into two categories: reforming the structure of Congress, and imposing budget discipline.

Reforming the Structure of Congress

1) Combine the Authorization and Appropriation Processes.

The current budget process involves too many committees in the formulation of the defense budget. During the annual budget cycle, the authorization and appropriation processes each allow eight separate opportunities for alteration of line items. That is simply too much. We believe a useful first step would be to combine the authorizing and appropriating functions, as suggested in Senator Kassebaum's legislation (S. Res. 13). This change would

lead to greater budgeting stability, less micromanagement, and more responsible oversight.

2) Reduce the Number of Committees and Subcommittees that Deal with Defense.

As it stands today, a staggering 107 committees and subcommittees can claim some role in Pentagon oversight. The result is massive jurisdictional confusion. Moreover, the growth in the committee structure has increased the responsibilities of members assigned to these committees. Many members admit that they are stretched too thin. It is no wonder that so many committee and subcommittee hearings attract few members.

3) Reduce Office Staff by 25% over the next Four Years.

One of our most controversial suggestions targets the huge growth in the size of Congressional staff. These staffers make important contributions to national security. However, their numbers have simply grown out of proportion in recent years. As our defense forces continue to decline, there is little reason to maintain Congressional staffing levels that date from the Cold War era. As such, we feel that the Congress should initiate a "build-down" of its own, reducing staff by 25% over the next five years.

4) Reduce Unnecessary Reporting Requirements.

Current requirements are simply too extensive. For example, 104 separate reports were required in the FY 1993 Defense Authorization bill. It takes perhaps 30 seconds for a member of Congress to request a report from DoD; it may take weeks or months to produce that report. In addition to creating administrative burdens, these requirements can be costly. The average report is estimated to cost over \$50,000.

Congress should review all existing reporting requirements and pass legislation to ensure that reports are required only when there is current or continuing interest. In addition, all reporting requirements should have a "sunset provision" requiring that they be reauthorized every three years or expire.

Imposing Budget Discipline.

Besides these structural improvements, we also support several reforms of the budget process itself.

5) Authorize Procurement of Major Weapons Systems on a Multi-year Basis.

Authorization of big-ticket items and major defense systems on a multi-year (at least two years) basis would enhance budget stability, make DoD planning easier, and promote better Congressional oversight by encouraging a long-term perspective. Broad spending categories such as personnel, military construction, and operations and maintenance are relatively stable, and predictable. These areas are particularly promising candidates for long-term budgeting of three to five years.

However, not all items should be subject to a multi-year approach. Risky procurement programs, such as the C-17, may still demand a yearly review. Additionally, much R&D requires the flexibility of a yearly look to take advantage of advances or to respond to problems.

6) The House and Senate should Establish Parallel Jurisdictions among their Major Committees.

This issue affects many different committees, but is especially acute in the Armed Services Committees. Both the Senate and House Armed Services Committees have six subcommittees, but these subcommittees do not correspond

with each other. Moreover, in neither committee do the subcommittees correspond to the five major defense spending categories of personnel, procurement, research and development, operations and maintenance, and military construction. Structuring the committees along these lines could significantly improve their oversight operations.

CONCLUSION

Mr. Chairman, at BENS, we feel that the steps outlined above would make a significant contribution toward enhancing the many positive contributions that the Congress can make to America's national security policies. However, we do not suggest that Congress is the only obstacle to effective management of defense dollars. This clearly is a two-way street. The Pentagon must also continue reforming itself.

This Committee has begun the important work of improving Congress' oversight role. We look forward to working with you as you continue these efforts.

Statement of the
Conservation and Fishing Community Negotiating Group
on Marine Mammal Protection Act Reauthorization

before the

Joint Committee on the Organization of Congress

June 29, 1993

Mr. Chairman and members of the Joint Committee, thank you for the opportunity to appear before you today. My name is Suzanne Iudicello; I am Senior Program Counsel for the Center for Marine Conservation. My statement is made on behalf of a coalition of more than 40 environmental, conservation, commercial and recreational fishing groups, whose members include millions of Americans committed to the conservation of the ocean's resources. We are not the typical "coalition" or "interest group," in that our members include diverse interests that in many cases find themselves in opposition before committees of Congress. In at least two instances--our cooperation on the current reauthorization of the Marine Mammal Protection Act, and our support for the work of the House Merchant Marine and Fisheries Committee on this important marine conservation issue--we find ourselves on the same team.

We are speaking today in opposition to any reform that would eliminate the important marine focus and work of the House Merchant Marine and Fisheries Committee.

The Merchant Marine and Fisheries Committee Plays an Important and Lone Role
Advocating for the Ocean and Marine Resources

Among the recommendations of the experts advising your committee was the suggestion by Mr. Thomas E. Mann and Mr. Norman J. Ornstein in "The Renewing Congress Project" that the Merchant Marine and Fisheries Committee be dismantled and consolidated into the House Natural Resources Committee and the House Public Works and Transportation Committee. We oppose this suggestion for the following reasons:

- We disagree with the assessment that the House Merchant Marine & Fisheries Committee has a narrow agenda.

- As a "client group" that defies traditional definition, we have found the Committee Members and Staff to be advocates of diversity and collaboration—not historic interest group politics.

- The ocean environment and ocean resources have been absent or of low priority on traditional environment and natural resource management agendas outside the Merchant Marine and Fisheries Committee. Relegating the marine environment to an afterthought in terrestrial resource management committees occurs despite the fact that the U.S. EEZ is double the territory of America's land mass, and that the oceans and their resources contribute significantly to national income, food, recreation, jobs, biological diversity and global atmospheric change.

- Ocean issues promise to be high on the *public's* agenda in the coming decade. Within 10 years it is estimated that more than three-fourths of the American public will live within an hour's drive of the coast, imposing tremendous demands on infrastructure, economic resources, and the coastal environment.

- Finally, though ocean issues may not have had high visibility on the overall Congressional agenda, the Merchant Marine and Fisheries Committee was successful in seeing through enactment more than 100 bills related to the ocean and its resources during the 101st and 102nd Congresses. The balance of the 103rd Congress promises to be busy, as well, with action pending on the Magnuson Fishery Conservation and Management Act, the Clean Water Act, the Endangered Species Act, and the Marine Mammal Protection Act, among others.

It is with regard to this last point that our coalition wishes to make its specific remarks about the diligence, expertise, and institutional memory of the House Merchant Marine & Fisheries Committee and its staff.

The Committee Has Encouraged Unprecedented Cooperation Between Environmental and Fishing Groups Working on Marine Mammal Issues

The Marine Mammal Protection Act was passed by Congress in 1972 to protect marine mammals of "great international significance. . . aesthetic and recreational as well as economic." For two decades its mandate has been to protect whales, porpoises, seals, and sea lions, walruses, polar bears, sea otters, and manatees through its major provision: a moratorium on the taking of all

marine mammals by persons subject to U.S. jurisdiction. Another goal of the MMPA is that the "incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing be reduced to insignificant levels approaching a zero mortality. . .rate."

The Act gives the Secretary of Commerce authority to waive the moratorium, if the best available scientific evidence reveals it would not disadvantage a marine mammal stock to do so. Certain limited exemptions are allowed for takes of small numbers of marine mammals for a variety of purposes, including incidental (not intended) takes during commercial fishing.

Marine mammals eat fish that are also the target of our commercial fleets, and occur in areas where fishing is conducted. As a result they are incidentally taken during commercial fishing operations. The regulation of such operations to protect marine mammals has become a critical, and often volatile, issue. It also has presented an unusual opportunity for the environmental community and the fishing industry to work together to find common ground and creative solutions. This work has been encouraged by the House Merchant Marine and Fisheries Committee.

In 1987, with the introduction and passage of the Marine Plastic Pollution Research and Control Act (Pub. L. 100-220, tit. II, 101 Stat. 1460 (1987)), the Committee in general, and Mr. Studds in particular, were instrumental in crafting provisions to monitor the use and effects of high seas driftnets on American marine resources. The driftnet provisions of that legislation (Pub. L. 100-220, tit. IV (1987)) saw the first collaboration between environmental and fishing groups to address a marine mammal interaction issue.

The very next year reauthorization of the MMPA was on the agenda. Focus on the high seas driftnet fleets and a court interpretation of the Act's prohibition on taking marine mammals had resulted in the conclusion that U.S. fishermen could not conduct operations if it were likely that gear would entangle marine mammals. This situation brought together representatives of the environmental community and the fishing industry during the spring and summer of 1988 to find a way to enable fishermen to go fishing, yet minimize the harmful impact of that activity on marine mammals. At the encouragement of the Merchant Marine and Fisheries Committee, they hammered out a series of points that they presented jointly to the House Committee and the Senate Commerce Committee. Under the leadership of the House Merchant Marine and Fisheries Committee, Congress passed the MMPA Amendments of 1988 (Pub. L. 100-711 (1988)).

Over the intervening five years, our two communities have found additional reasons to come together to continue pushing for control of large-scale, high seas driftnets--with success in both the United Nations and in the Congress with the 1990 Fishery Conservation Amendments--again with encouragement and leadership from the House Merchant Marine and Fisheries Committee.

The most recent chapter in this collaboration is being written now. The 1988 amendments to the MMPA included a five-year program exempting commercial fisheries from the taking prohibitions of the Act to provide time to collect reliable information about marine mammal and commercial fishing interactions and to complete conservation and recovery plans, while allowing commercial fishing operations to continue. Unlike most reauthorizations, where the authorizing date may come and go without much effect, the program created in the 1988 Amendments will expire this September, and with it the provisions allowing incidental take of marine mammals in commercial fishing operations. Once again, House Merchant Marine and Fisheries Committee staff encouraged environmentalists and the fishing industry to sit down at the table.

Just three weeks ago, we delivered the product of our three months of negotiations to the Congress. The negotiated agreement on proposals to amend the MMPA provisions on incidental take of marine mammals in commercial fishing has been endorsed by groups from coast to coast, representing a wide array of fishing, environmental, conservation, and recreational interests. Throughout the process, staff of the Committee stayed in close touch, urging cooperation among our interest groups. We are responding to questions and concerns now as they draft legislation implementing the ideas of our negotiating group and others.

It is difficult to say definitively, when representing an interest before Congress, just what event or influence made the difference. In looking back over the past seven years' work to reduce incidental take of marine mammals in commercial fishing operations, the direct interest and involvement of the Committee and its staff have been critical to advancing this issue. Without their encouragement, we can safely say that our coalition of diverse interests would not have been possible.

In conclusion, we believe that the importance of ocean resource issues merits specific Congressional committee attention, and should not be relegated to the bottom of the list of public lands and natural resource issues in other committees. We urge the Joint Committee to review the excellent record of the House Merchant Marine and Fisheries Committee in dealing with contentious,

complex ocean environment issues, and their success in bringing cooperation in problem solving to the process. We therefore respectfully request the Joint Committee to reject the proposal to dismantle the Committee.

Thank you again for this opportunity to testify. I would be glad to answer any questions members of the Joint Committee may have.

The following groups have endorsed the Negotiated Agreement on the Marine Mammal Protection Act reauthorization:

Alaska Groundfish Data Bank	Kodiak Island Borough
Aleutians East Borough	Maine Gillnetters Ass'n
American Factory Trawler Ass'n	Maine Sardine Council
American High Seas Fisheries Ass'n	National Audubon Society
American Seafood Harvesters Ass'n	National Fisheries Institute
Animal Protection Institute	National Fishmeal & Oil Ass'n
Arctic Alaska Fisheries Corporation/Tyson Seafood Group	New England Fishery Management Council
Associated Fisheries of Maine	Northwest Indian Fisheries Commission
Ass'n of Village Council Presidents	Pacific Seafood Processors Ass'n
Bering Sea Coalition	Pacific States Marine Fisheries Commission
Bering Sea Fishermen's Ass'n	Peninsula Marketing Ass'n
Blue Water Fishermen's Ass'n	Pt. Judith Fisheries Coop Ass'n
California Abalone Ass'n	Sea Urchin Processors Ass'n of California
California Gillnetters Ass'n	Seafreeze LTD
California Urchin Divers Ass'n	The Marine Mammal Center
California Urchin Producers Ass'n	Sport Fishing Institute
Center for Marine Conservation	Trout Unlimited
City of St. Paul, Alaska	World Wildlife Fund
Concerned Area M	
Cordova District Fishermen United	
Friends of the Sea Otter	
Greenpeace	
Gulf of Alaska Coalition	



Center for Marine Conservation

STATEMENT OF R. GARY MAGNUSON
VICE PRESIDENT, CENTER FOR MARINE CONSERVATION
— SUBMITTED TO THE
JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS
June 29, 1993



The Center for Marine Conservation is a national non-profit organization dedicated to maintaining the health and diversity of marine life through policy-oriented research, public education, citizen involvement, and responsible advocacy. On behalf of the Center, I appreciate this opportunity to express our opposition to the recommendation proposed by Messrs. Ornstein and Mann, Co-Directors of The Renewing Congress Project, before the Joint Committee to consolidate the House Merchant Marine and Fisheries Committee into broader committees with compatible jurisdiction, namely the House Public Works and Transportation Committee, and the House Natural Resources Committee. I would also appreciate being identified with the views contained within the statement of the Conservation and Fishing Community Negotiating Group on the Marine Mammal Protection Act Reauthorization, which will be presented today before the Joint Committee.

The House Merchant Marine and Fisheries Committee, as Messrs. Ornstein and Mann admit in their testimony before the Joint Committee, "has been a much more wide-ranging panel under Chairman Gerry Studds than it was under his predecessors." This is not due to Mr. Studds' leadership efforts alone, but is a reflection of the changing complexity of the Committee's charge. The fact of the matter is that due to the hard work of the Center and other groups and individuals, ocean and coastal issues are consistently appearing on the legislative agenda of the Congress. The early history of the Committee and its concentration on maritime matters

-- vessels, laws of navigation, the U.S. Merchant Marine, shipping, and shipbuilding, have been overtaken by an increased awareness on the part of the Congress and the Executive Branch on the need to provide improved governance for our nation's coastal and ocean resources. This awareness, which began just twenty years ago, continues today to address some of the most difficult and complex policy issues of government, including biodiversity, trade and the environment, and the establishment of a comprehensive management framework for ocean resource use. This Congress alone the Committee has before it the reauthorizations of the three primary marine life laws, the Marine Mammal Protection Act, the Fisheries Conservation and Management Act, and the Endangered Species Act.

To characterize the House Merchant Marine and Fisheries Committee, with some 177 laws and programs within its jurisdiction, as a single issue or single constituency committee is not valid. Simply stated, we believe the call for committee consolidation, is more a matter of convenience, rather than common sense.

We agree that the Joint Committee can do much to improve the operations of Congress by reducing the number of subcommittees, limiting member assignments to these subcommittees, and reducing the membership of standing committees. To consolidate the House Merchant Marine and Fisheries Committee with the House Public Works and Transportation Committee and the House Natural Resources Committee, however, glosses over the important role of the Committee, in concert with its Senate counterpart, the Senate

Commerce Committee. To lead Congress in governing the increasing use of, and public interest in, our nation's coastal and ocean resources. To do otherwise, as Messrs. Ornstein and Mann suggest, would be to turn away from our marine heritage and relegate marine issues to compete with and be overshadowed by terrestrial concerns, which have dominated the agenda of the two other committees.

During your deliberation, I trust that you will conclude that the complexity and vastness of the nation's living marine resources and their environment, which comprise 3.9 billion surface acres and is nearly 70 percent larger than the country's total onshore area, merits special attention by Congress. This special attention by Congress can best be served in the House of Representatives by the Members and leadership of the House Merchant Marine and Fisheries Committee.

Thank you for your attention to our views.

My name is Gaiashkibos and I am the president of the National Congress of American Indians. The National Congress of American Indians is the oldest and largest tribal organization in the United States and currently our membership includes 119 tribal governments. I would like to thank the Chairman and the members of the Joint Committee on the Organization of the Congress for allowing me the opportunity to submit testimony in support of the Senate Committee on Indian Affairs and the House of Representative's subcommittee on Native American Affairs and their leadership in addressing issues critical to tribal governments and Indian people.

I would like to start with a quote that I believe summarizes the significance and complexities of the federal role in American Indian affairs:

"...[F]ederal Indian laws and policies adopted by Congress and interpreted by the courts dominate the lives of Native Americans. Indians are controlled by laws in ways barely comprehensible to other United States citizens. Legal questions pervade tribal conduct with the federal government. The courts have powers of life and death proportion over tribal existence. The nature of United States constitutional law and public policy is such that legal issues loom large in even the smallest details of Indian culture, economic, and political life. More than four thousand statutes and treaties controlling relations with Native Americans have been enacted and approved by the United States Congress. Federal regulations and guidelines implementing these are even more numerous. The tribe's own laws, and some state statutes dealing with Indians, further complicate this legal maze. There are many thousands of reported court decisions interpreting the treaties, statutes, regulations and policies plus seemingly endless solicitors opinions, administrative rulings, and Bureau of Indian Affairs directives..."

Rennard Strickland, Oxford Companion to the United States

Supreme Court, "Native American Law" [DRAFT].

Indian issues within the law are perhaps best understood if the history of the American Indian experience is remembered. As Associate Justice Felix Frankfurter stated, "...To understand the intricacies and peculiarities of Indian law...an appreciation [is needed] of the history and understanding of the economic, social, political and moral problems in which the more immediate problems of that law are entwined...."

Significant fluctuations in the federal Indian policy has shaped the history of Indian laws and patterns of Congressional action. For instance, Congress promised "...the utmost good faith be observed toward the Indian..." during the youngest days of our Country. Later, during the Period of Removal (Jacksonian Era), hundreds of thousands of Indians died during forced marches, removals, and evictions. Over ninety million acres of Indian lands were lost. During the Period of Reorganization and Reestablishment during the 1930's, the federal government worked to revive the tribal governments. This period was followed by the Termination Period, in which hundreds of Tribes lost their federal-tribal relationships. This period is also marked by the significant number of Indian children taken from their families and placed into non-Indian homes, in an effort to "assimilate" them. Since 1961, the federal government has followed policies which promote and encourage Tribal Self-Determination and Tribal revitalization.

The result of the various policies and federal commitments, is confusing and often an inconsistent collection of rules and regulations governing Indians and

Tribal Governments. Needs and pressing issues are best addressed when a full understanding of the laws exist. By organizing Congress in a way which utilizes one entity in the House and another single entity in the Senate, the federal government can ensure coordination of its efforts to effectively deal with the various Indian issues.

One of the significant functions performed by both the Senate Committee on Indian Affairs and the House Subcommittee on Native American Affairs is coordinating the Indian programs responsibilities which, collectively, involve virtually all of the Federal Agencies and Departments. Without a single entity to provide a comprehensive framework in which the various issues, existing rules and regulations, and conflicting interests may be examined, the result would be a fragmented approach to government.

From the birth of the United States, it has been acknowledged through the Constitution, statutes, and legal precedent, that Indian tribes are separate and unique governments. The obligations of the United States government to Indians and Indian Tribes is based on this legal relationship. The "government to government" relationship cannot be effective if the federal government's approach to Indian affairs is fragmented. The National Congress of American Indians supports both the Senate Committee on Indian Affairs and the House Subcommittee on Native American Affairs because, through these two entities, American Indians benefit from this coordinated, comprehensive approach to this "government to government" relationship.

We believe the role of both the Senate Committee on Indian Affairs and

the House Subcommittee on Native American Affairs is crucial to the United States government fulfilling its trust responsibilities to Indian Tribal governments and Indian people. The National Congress of American Indians strongly supports the comprehensive and responsive approach to federal issues concerning Indians of both the Senate Committee on Indian Affairs and the House Subcommittee on Native American Affairs.

Thank you for this opportunity to submit this written statement on behalf of our 119 tribal government members. If you have any questions or need additional information, please contact me or Rachel A. Joseph, Interim Executive Director, at (202) 546-9404.



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